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MONTANA

WORKERS' COMPENSATION

ANNUAL REPORT

FISCAL YEAR 2005

DEPARTMENT OF LABOR AND INDUSTRY
EMPLOYMENT RELATIONS DIVISION

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Montana
Department of Labor and Industry
Commissioner's Office

Governor Brian Schweitzer
Keith Kelly, Commissioner

Dear Colleagues and Fellow Montanans,

On behalf of the Department of Labor and Industry's Employment Relations Division, I am honored to present the ***2005 Worker's Compensation Annual Report*** -- an annual overview of worker's compensation related activities in Montana.

Workers' compensation systems are a complex balance of benefits, premiums and costs that vary from state to state. Recently we heard economic discussions, which concluded that Montana is uninviting for future industry development due to our workers' compensation rates being higher than those of other neighboring states. In order to address this notion, the Department has undertaken an in-depth study of the Montana workers' compensation system to define and establish accurate means of comparison across other state systems and report the results in an objective manner.

The study will:

- Identify specific and well-defined metrics, as well as sources for data, for the basis of the study;
- Solicit support for the study by engaging the input of stakeholders and interested parties, such as insurers, medical providers, injured workers and legislators;
- Provide Montana workers' compensation policy makers with baseline information on the current status of the Montana system, as compared empirically and accurately with other states; and
- Determine primary cost drivers in the Montana workers' compensation system.

The above-mentioned study is just one example of our continuing efforts to enhance and improve the workers' compensation environment in Montana. With the continued cooperation of the workers' compensation community, we can make a difference and assure a safe and brighter future for all Montanans.

Sincerely,

Keith Kelly

Keith Kelly
Commissioner

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"AN EQUAL OPPORTUNITY EMPLOYER"

Table of Contents & Charts

Summary v

Section 1: Montana's Workers' Compensation System

Declaration of Public Policy 3

Insurance Coverage Requirements 4

Life of a Claim 5

Workers' Compensation System Administration 7

Workers' Compensation Market 9

Exhibit 1.1 – Gross Annual Payroll – Plan 1 By Calendar Year (graph) 9
Exhibit 1.2 – Premium Dollars – Plans 2 and 3 By Calendar Year (graph) 9
Exhibit 1.3 – Market Share – By Plan and Calendar Year (table) 9

Section 2: Claims Statistics

Comparison of Claims by Plan Type 13

Exhibit 2.1 – Reported Claims – Five Year Trend by Plan Type (graph) 13
Exhibit 2.2 – Reported Claims – By Plan Type and Fiscal Year of Injury (table) 13

Injured Worker Characteristics 14

Exhibit 2.3 – Reported Claims FY05 – By SIC Major Groups (graph) 14
Exhibit 2.4 – Reported Claims – By SIC Major Groups and Fiscal Year of Injury (table) 14
Exhibit 2.5 – Employed Population Composition CY04 – (graph) 15
Exhibit 2.6 – Reported Claims CY04 – (graph) 15
Exhibit 2.7 – Reported Claims – By Gender and Fiscal Year of Injury (table) 15
Exhibit 2.8 – Reported Claims FY05 – By SIC Major Groups and Gender (graph) 16
Exhibit 2.9 – Reported Claims FY05 – By SIC Major Groups and Gender (table) 16
Exhibit 2.10 – Reported Claims FY05 – By Nature of Injury (graph) 17
Exhibit 2.11 – Reported Claims – By Nature of Injury and Fiscal Year of Injury (table) 17
Exhibit 2.12 – Reported Claims FY05 – By Cause of Injury (graph) 18
Exhibit 2.13 – Reported Claims – By Cause of Injury and Fiscal Year of Injury (table) 18
Exhibit 2.14 – Reported Claims FY05 – By Industry and Cause of Injury (table) 18
Exhibit 2.15 – Reported Claims FY05 – By Part of Body (graph) 19
Exhibit 2.16 – Reported Claims – By Part of Body and Fiscal Year of Injury (table) 19

Insurer Denial of Claims 20

Exhibit 2.17 – Insurer Denial of Claims – By Reason of Denial and Fiscal Year of Injury (table) 20
Exhibit 2.18 – Insurer Denial of Claims – By Percent and Fiscal Year of Injury (graph) 20

Fatal Occupational Injuries - 2004 21

Exhibit 2.19 – Fatal Work Injuries in Selected Industries (graph) 21
Exhibit 2.20 – Occupational Fatalities by Gender (graph) 22
Exhibit 2.21 – Workplace Fatalities by Event or Exposure (graph) 22
Exhibit 2.22 – Occupations with the Largest Number of Fatalities (graph) 23
Exhibit 2.23 – Fatal Work Injuries by Location (graph) 23
Exhibit 2.24 – Occupational Fatalities by Employee Status (graph) 24
Exhibit 2.25 – Occupational Fatalities by Age (graph) 24

Section 3: Benefits

Total Benefits 27
Exhibit 3.1 – Total Benefits Paid FY05 – By Plan Type (graph) 27
Exhibit 3.2 – Total Benefits Paid – By Plan Type and Fiscal Year of Payment (table) 27
Exhibit 3.3 – Medical Payments FY05 – By Plan Type (graph) 28
Exhibit 3.4 – Medical Payments – By Plan Type and Fiscal Year of Payment (table) 28
Exhibit 3.5 – Indemnity Payments FY05 – By Plan Type (graph) 29
Exhibit 3.6 – Indemnity Payments – By Plan Type and Fiscal Year of Payment (table) 29

Benefit Report Data 30
Exhibit 3.7 – Total Wage Replacement: TTD, TPD, PTD, PPD, including Lump Sums (table) 31
Exhibit 3.8 – Total Medical Costs, including Lump Sums (table) 31
Exhibit 3.9 – Wage Replacement: Temporary Total Disability (table) 32
Exhibit 3.10 – Wage Replacement: Temporary Partial Disability (table) 32
Exhibit 3.11 – Wage Replacement: Permanent Partial Disability (table) 33
Exhibit 3.12 – Wage Replacement: Permanent Total Disability (table) 33
Exhibit 3.13 – Medical Costs: Payments to Physicians Paid to Date (table) 34
Exhibit 3.14 – Medical Costs: Payments to Hospitals (table) 34
Exhibit 3.15 – Medical Costs: Payments to other Medical Providers (table) 35
Exhibit 3.16 – Medical Costs: Paid to Physicians, Hospitals and Other medical Providers (table) 35
Exhibit 3.17 – Wage Replacement: Lump Sums (table) 36
Exhibit 3.18 – Medical Lump Sums: Paid to Claimant as Settlement of Medical Liability (table) 36
Exhibit 3.19 – Wage Replacement: Vocational Rehabilitation Benefits (table) 37

Settlement Dollars 38
Exhibit 3.20 – Average Settlement – By Fiscal Year of Injury (graph) 38
Exhibit 3.21 – Settlement Amounts for Claims Settled – By Plan Type and Fiscal Year of Injury (table) 38

Attorney Fees 39
Exhibit 3.22 – Total Attorney Legal Fee – By Plan Type and Fiscal Year of Injury (table) 39
Exhibit 3.23 – Average Attorney Legal Fees – By Fiscal Year of Injury (graph) 39
Exhibit 3.24 – Attorney Fees from Claimant Settlements – By Fiscal Year of Settlement (table) 40

Section 4: Dispute Resolution

Occupational Disease Evaluations 43
Exhibit 4.1 – Occupational Disease Cases – By Plan Type and Fiscal Year of Evaluation Request (table) 43

Mediation 44
Exhibit 4.2 – Claims in Mediation FY05 – By Plan Type (graph) 44
Exhibit 4.3 – Claims in Mediation – By Plan Type and Fiscal Year of Receipt (table) 44
Exhibit 4.4 – Percent of Petitions Resolved – By Mediation FY05 (graph) 45
Exhibit 4.5 – Mediation Petitions – By Fiscal Year of Receipt (table) 45

Contested Case Hearings 46
Exhibit 4.6 – Petitions Received by the Hearings Bureau FY05 – By Plan Type (graph) 46
Exhibit 4.7 – Petitions Received by the Hearings Bureau – By Plan Type and Fiscal Year (table) 46

Workers' Compensation Court 47
Exhibit 4.8 – Percent of Petitions Received by the WCC FY05 – By Plan Type (graph) 47
Exhibit 4.9 – Petitions Received by the WCC – By Plan Type and Fiscal Year (table) 47
Exhibit 4.10 – Decisions by the WCC – By Fiscal Year (table) 48
Exhibit 4.11 – Full and Final Compromise Settlements by the WCC – By Plan Type and Fiscal Year (table) 48

Significant Workers' Compensation Court Cases 49

Selected Supreme Court Decisions on Workers' Compensation and Occupational Disease 54

Section 5: Department Administered Programs

Organizational Charts 59
Exhibit 5.1 – Montana Department of Labor & Industry (graph) 59
Exhibit 5.2 – Employment Relations Division (graph) 59

Workers' Compensation Assessments as Expended 60
Exhibit 5.3 – Workers' Compensation Assessments as Expended – By Fiscal Year of Expenditure (table) 60

Subsequent Injury Fund 61
Exhibit 5.4 – SIF Payments and Dollars Assessed – By Plan Type and Calendar/Fiscal Years (table) 61

Uninsured Employers' Fund 62
Exhibit 5.5 – Uninsured Employers' Fund – Financial Activity by Fiscal Year (graph) 62
Exhibit 5.6 – Uninsured Employers' Fund – Financial Activity by Fiscal Year (table) 62
Exhibit 5.7 – UEF Medical and Indemnity Payments FY05 (graph) 63
Exhibit 5.8 – UEF Medical and Indemnity Payments – By Fiscal Year (table) 63

Occupational Safety & Health 64
Exhibit 5.9 – Occupational Safety & Health Activities FY05 (tables) 65

Independent Contractor Exemption Certificates 66
Exhibit 5.10 – Percent of IC Exemptions – By Industry (graph) 66

Professional Employer Organizations 67
Exhibit 5.11 – Professional Employer Organizations – By Number of Licenses and Fiscal Year (graph) 67
Exhibit 5.12 – Professional Employer Organizations – By Number of Clients and Fiscal Year (graph) 68
Exhibit 5.13 – Professional Employer Organizations – By Leased Employees and Fiscal Year (graph) 68

Appendices

Definitions 71

Methodology 76

Data Sources 77

Future Annual Reports 78

Internet Site 78

Special Studies Available 78

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Summary

Listed below are highlights from the Montana Workers' Compensation Annual Report Fiscal Year 2005. This report contains information about Montana's workers' compensation system, including injury statistics and characteristics, benefits paid to claimants, payments made by insurers to others in the system, dispute resolution and miscellaneous regulatory programs and functions. Unless otherwise cited, all reported numbers, charts, and tables are derived from the State of Montana workers' compensation database (WCAP).

Claims Statistics

There were 32,164 claims reported in Fiscal Year 2005 (FY05) compared with 32,443 reported in FY04. This is a decrease of 0.9% from FY04. Since FY01, the number of claims reported by the Montana State Fund has increased by 43.6% (from 10,325 to 14,823), while claims reported by private carriers have decreased by 44.9% (from 17,303 to 9,530). The number of claims reported by self-insurers has remained about the same. The service industry was responsible for 27.2% of all claims reported in FY05. Retail trade had the second largest percentage of claims at 12.3%.

Benefits

The total indemnity (wage loss) and medical benefits paid in FY05 were $210,307,885 compared to $210,767,361 in FY04, decreasing $459,506 or 0.2%. Medical benefit payments as reported to the Department of Labor and Industry (DLI) decreased for Montana State Fund, whereas self insurers and private carriers saw an increase in medical benefits paid. Self-insurers' medical payments increased by 1.5% and private carriers increased 3.4% in FY05. Montana State Fund medical benefits paid decreased by 4.2%.

A report portraying average and median benefits (indemnity and medical) paid throughout the lives of indemnity claims is in the Benefits section. The report, compiled by Insurance Services Office, Inc. (ISO) using data from the WCAP database, covers a period of 6 years (FY00 through FY05).

Dispute Resolution

The Claims Unit of the Employment Relations Division (ERD) is responsible for the occupational disease evaluation process. They processed 193 occupational disease cases in FY05. This is an increase of 55.6% from FY04.

The Mediation Unit completes a case by holding a conference and issuing a written recommendation. During FY05, the unit processed 1,463 petitions, resulting in a resolution rate of 78%.

The Hearings Bureau received 11 new petitions for contested case hearings in FY05, a decrease of 21.4% from FY04.

The Workers' Compensation Court received 267 petitions, dismissed 83 petitions and issued 161 decisions in FY05.

Workers' Compensation Assessments as Expended

The administration of the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment on employers and insurers. The cost of the regulatory functions in FY05 was $4,735,449. Beginning in FY00, a new process was instituted and each insurer was assessed 3% of benefits paid. For policies written by Plan 2, private insurers and Plan 3, the Montana State Fund, the assessment is collected as a premium surcharge paid by individual policy holders.

Subsequent Injury Fund (SIF)

SIF payments in FY04 for all dates of injury were $172,559. There were 208 new SIF certifications during FY05 resulting in a total of 3,610 certified individuals in the state of Montana.

Uninsured Employers' Fund (UEF)

UEF provides benefits for injured employees when employers are without appropriate workers' compensation insurance. In FY05, UEF collections increased 35.1% from FY04, totaling $1,908,717. There were 90 new claims and injured workers received $728,279 in medical and indemnity benefits in FY05.

Occupational Safety & Health

Mandatory inspections in the public sector completed by the Occupational Safety & Health Bureau totaled 422. The bureau completed 236 onsite inspections in the private sector. In addition, 39 onsite inspections were performed in the coal mining industry and 59 in sand and gravel operations. The Training Institute conducted 40 formal training sessions in CY05, training 949 workers. Local Focus Groups held 40 training sessions, which trained 676 workers.

Independent Contractor Exemptions

Independent contractors who do not wish to be covered under workers' compensation insurance may file for an exemption with the DLI. The number of independent contractor exemption applications received for FY05 totaled 7,578. Fifty-nine percent of the independent contractors are in the construction industry.

Professional Employer Organizations (PEO's)

To be licensed, a PEO must submit an application and proof of workers' compensation coverage. Twenty-eight PEO's were licensed in Montana at the end of FY05. These PEOs leased 2,629 employees to 364 client companies.

Workers' Compensation System

DECLARATION OF PUBLIC POLICY

INSURANCE COVERAGE REQUIREMENTS

LIFE OF A CLAIM

WORKERS' COMPENSATION SYSTEM ADMINISTRATION

WORKERS' COMPENSATION MARKET

Declaration of Public Policy [1]

It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage loss and medical benefits to a worker suffering from a work-related injury or disease. Wage loss benefits are not intended to make an injured worker whole; they are intended to assist the injured worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

A worker's removal from the work force due to a work-related injury or disease has a negative impact on the injured worker, the injured worker's family, the employer, and the general public. Therefore, the main objective of the workers' compensation system is to return injured workers to work as soon as possible after suffering a work-related injury or disease.

Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-administering. Claimants should be able to obtain benefits speedily and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

Title 39, chapters 71 and 72, MCA Workers' Compensation and Occupational Disease Acts, respectively, must be construed according to their terms and not liberally in favor of any party.

The legislature's intent regarding stress claims, often referred to as "mental-mental claims" and "mental-physical claims", does not allow for compensation under Montana's Workers' Compensation and Occupational Disease Acts. The legislature recognizes that these claims are difficult to verify objectively and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. The legislature has the authority to define the limits of the workers' compensation and occupational disease systems.

[1] §39-71-105, MCA (2003)

Insurance Coverage Requirements

If you are an employer or an employee, the Workers' Compensation and Occupational Disease Acts apply to you. An employer who has an employee in service under any appointment or contract of hire, expressed or implied, oral or written, must elect to be bound by the provisions of compensation Plan 1 (self-insured), Plan 2 (private insurance companies) or Plan 3 (Montana State Fund).

Employment Exempted

The Workers' Compensation and Occupational Disease Acts may not apply to any of the following employments:

- Household and domestic employment
- Casual employment
- Dependent member of an employer's family for whom an exemption may be claimed by the employer under the Federal Internal Revenue Code
- Sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company
- Real estate, securities or insurance salesperson paid solely by commission without a guarantee of minimum earnings
- A direct seller
- Employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States
- A person performing services in return for aid or sustenance only, except employment of volunteers
- Employment with a railroad engaged in interstate commerce, except railroad construction work
- An official, including a timer, referee, umpire or judge, at a school amateur athletic event
- A person performing services as a newspaper carrier or freelance correspondent
- Cosmetologist's services and barber's services
- A person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the reservation
- A jockey who is performing under a license issued by the Board of Horse Racing, from the time the jockey reports to the scale room prior to a race through the time weighed out and has acknowledged in writing that jockey is not covered while performing services as a jockey
- Trainer, assistant trainer, exercise person or pony person who is providing services under the Board of Horse Racing while on the grounds of a licensed race meet
- An employer's spouse
- A petroleum land professional
- An officer of a quasi-public or a private corporation or manager of a manager-managed limited liability company
- A person who is an officer or a manager of a ditch company
- Service performed by an ordained, commissioned or licensed minister of a church
- Independent Contractors
- Providers of companionship services or respite care if a family member or legal guardian hires the person providing care.

Life of a Claim[2]

Accidents do happen and when a Montana worker files a workers' compensation claim, the life of that claim is dictated primarily by statute. Progress of a typical workers' compensation claim in Montana is determined by the following guidelines:

- Once the injury occurs, the injured worker or their authorized representative has 30 days from the date of injury to notify the employer (employer, managing agent or superintendent in charge of the work) or the insurer. [§39-71-603, MCA]

- The employer then has six days from date of notification of an injury to report the injury to the insurer or the Department of Labor and Industry (DLI). [§39-71-307, MCA, and ARM 24.29.801]

- The claimant or the claimant's representative has 12 months from the date of injury to file a claim. [§39-71-601(1), MCA] The claim filing time can be extended up to an additional 24 months if it can be proven that the worker was somehow prevented from filing the claim because of something the employer or the insurer said or did, or if the injury was latent or the worker lacked knowledge of disability. [§39-71-601(2), MCA]

- The signed claim form or First Report of Injury and Occupational Disease (FROI) (form ERD-991) can be submitted to the employer or sent directly to the insurer, the adjuster or the DLI. [§39-71-601(1), MCA]

- The insurer/adjuster shall accept or deny a claim within 30 days of receipt of a signed claim for compensation by the claimant, the employer or the claimant's representative. If the claim is denied, the worker is notified in writing of the denial. [§39-71-606, MCA]

- If further investigation is needed before the insurer accepts liability and the 30 day limitation for a decision on compensability is due to expire, the insurer/adjuster may pay wage loss and/or medical benefits without such payment being an indication of admission of liability or waiver of any right of defense. [§§39-71-608 and 39-71-615, MCA]

- The first 4 days or 32 hours (whichever is less) of total wage loss is not compensable, but a claimant may use sick leave during this time. A claimant cannot use sick leave and receive wage loss benefits at the same time. [§39-71-736, MCA]

- In addition to using an emergency room or urgent care center, the claimant has the right to select the first treating physician (within the treating physician definition). The insurer must then approve changes of treating physicians. The insurer has the right to deny payment for any unauthorized medical referrals and treatments. [§39-71-1101, MCA, and ARM 24.29.1510]

- The physician bills the insurer/adjuster directly. Payment is made according to a fee schedule. [§39-71-704(2) and (3), MCA] Once the insurer has accepted a claim, the medical provider must accept the fee scheduled reimbursement, as payment in full and the claimant is not responsible for any balance.

[2] MCA (2003)

- The claimant is responsible for payment of: (l) unauthorized treatment, (2) medical care not related to the injury, (3) medical services if treatment is not received for 60 months, (4) secondary medical services and palliative or maintenance care unless specifically covered, and (5) medical procedures specifically excluded. [ARM 24.29.1401 and §39-71-704, MCA]

- Temporary total disability (TTD) benefits are based on 66⅔% of the claimant's average weekly gross wages, subject to a maximum of the state's average weekly wage, and are paid bi-weekly until the claimant returns to work or has reached maximum medical improvement (MMI). [§§39-71-701 and 39-71-740, MCA] If the claimant is classified as permanently totally disabled (PTD), benefits can continue until the claimant reaches retirement age. [§39-71-710, MCA]

- If prior to attaining maximum medical improvement (MMI) and due to medical restrictions, the claimant returns to work at less than the wages received at the time of injury, they may be entitled to temporary partial disability (TPD) benefits. Temporary partial disability is limited to 26 weeks unless extended by the insurer. [§39-71-712, MCA]

- If after reaching MMI, the claimant has a residual impairment, greater than zero, the insurer is required to pay out the permanent partial disability (PPD) liability bi-weekly, unless the claimant requests a lump sum payment. [§§39-71-703 and 39-71-741, MCA]

- Other permanent partial disability liability is based on age, education, loss of earning capacity and work capacity restrictions. These criteria are determined based on the specifics of each individual case. [§39-71-703, MCA]

- If the worker is precluded from returning to the job they held at the time of injury and suffers an actual wage loss or has an impairment of 15% or greater, the worker is eligible for rehabilitation services. The insurer designates a rehabilitation provider and rehabilitation services are provided with the goal of returning the claimant to work as soon as possible. If a rehabilitation plan is established which indicates some type of retraining, the claimant may be eligible to receive monies for tuition, fees, books and other reasonable and necessary retraining expenses. The worker may also receive biweekly benefit payments based on the temporary total disability rate. [§39-71-1006, MCA] Financial assistance is also available for reasonable travel and relocation for training and job-related expenses, subject to a maximum amount of $4,000. [§39-71-1025, MCA]

- Medical benefits may remain available for at least 60 months (5 years) from the last date of service. The insurer may not be required to furnish palliative or maintenance care after the claimant has achieved MMI. [§39-71-704(1)(e), MCA]

Workers' Compensation System Administration

The Montana DLI, Employment Relations Division (ERD) provides a wide variety of services and regulation related to workers' compensation and safety.

Workers' Compensation Regulation Bureau

The **Carrier Compliance Unit** monitors compliance of private workers' compensation carriers (Plan 2). The unit also licenses professional employer organizations and processes extraterritorial agreements.

The **Contractor Registration Unit** ensures construction businesses with employees register and comply with workers' compensation requirements. The law provides protection from liability for workers' compensation claims for contractors who use the service of other registered construction contractors.

The **Independent Contractor Central Unit** issues decisions on employment relationships for the Department of Revenue, Labor Standards, Unemployment Insurance, Human Rights and Workers' Compensation. The unit also issues Independent Contractor (IC) Exemptions Certificates.

The **Medical Regulations Unit** develops fee schedules to provide an effective and equitable method of health care cost containment. Medical fee schedules are established by the unit and utilized by insurers to reimburse medical providers.

The **Self-Insurance Unit** administers a program of employers who elect to be self-insured for workers' compensation (Plan 1).

The **Subsequent Injury Fund Unit** certifies workers with permanent impairments that have a substantial obstacle to obtaining employment. They administer the funds that are used to offset claim costs associated with subsequent injuries to these workers.

The **Uninsured Employers Fund Unit** ensures employers and employees are protected under the Workers' Compensation and Occupational Disease Acts. The unit enforces coverage requirements for all employers, pays benefits to injured workers whose employers did not have workers' compensation coverage and manages the fund from which benefits are paid.

Workers' Compensation Claims Assistance Bureau

The **Claims Unit** ensures compliance with the Workers' Compensation and Occupational Disease Acts relating to benefits and claims. The unit also regulates attorney fees, administers the occupational disease evaluation process and provides assistance to insurers, attorneys and injured workers.

The **Data Management Unit** ensures compliance with claims reporting standards, maintains the workers' compensation database system and provides a comprehensive annual report on workers' compensation to the governor and the legislature.

The **Mediation Unit** provides an alternative method of resolving workers' compensation benefit disputes before the dispute goes to the Workers' Compensation Court. This is a mandatory, non-binding process.

Occupational Safety & Health Bureau

The **Occupational Safety & Health Bureau** conducts inspections of public employers, performs on-site consultations for private employers, and inspects coal mines and sand and gravel operations throughout the state. The Bureau provides safety and occupational health training for both public and private employers.

Workers' Compensation Market

Montana employers have options for obtaining workers' compensation coverage for their employees.

Employers with sufficient cash reserves may qualify as self-insured (Plan 1), either individually or by joining with other employers in their industry to form a self-insured group. Montana currently has 38 individual self-insured employers, four private groups (128 employers) and five public groups (405 employers).

Employers may obtain coverage with private insurance companies (Plan 2) in the voluntary market. During calendar year 2005, there were 462 private insurance companies who were authorized to write workers' compensation insurance in Montana.

Employers can insure through Montana State Fund (Plan 3). As the insurer of last resort, the Montana State Fund assures all Montana employers can provide workers' compensation insurance for their employees.

The changes in insurers' market share are reflected in the graphs and table below.

Exhibit 1.1
Gross Annual Payroll[2]
Plan 1 – By Calendar Year

Exhibit 1.2
Premium Dollars
Plans 2 and 3 - By Calendar Year

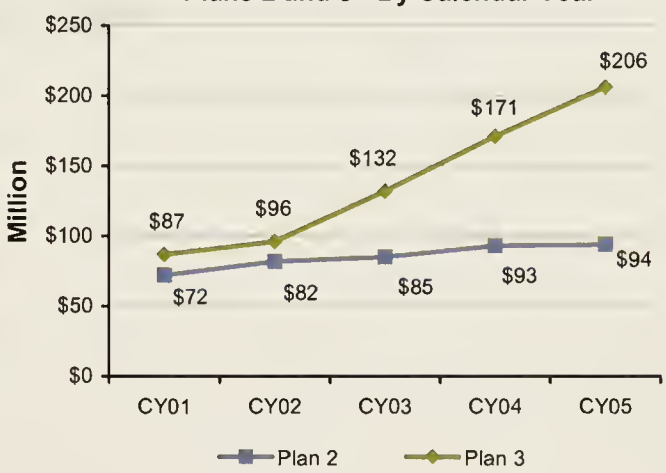


Exhibit 1.3
Market Share
By Plan[1] and Calendar Year

Calendar Year	2000	2001	2002	2003	2004	2005
Plan 1 – Payroll	$1,971,770,980	$2,042,192,981	$2,121,728,801	$2,324,840,487	$2,618,537,774	N/A[2]
Plan 2 – Premium	$77,129,965	$72,431,388	$81,725,533	$85,081,186	$92,915,175	$93,774,300
Plan 3 – Premium	$69,411,843	$86,813,640	$95,558,150	$131,804,047	$171,439,374	$206,425,227

Note:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund
[2]Calendar year 2005 Gross Annual Payroll data was not available when this report was published.

COMPARISON OF CLAIMS BY PLAN TYPE

INJURED WORKER CHARACTERISTICS

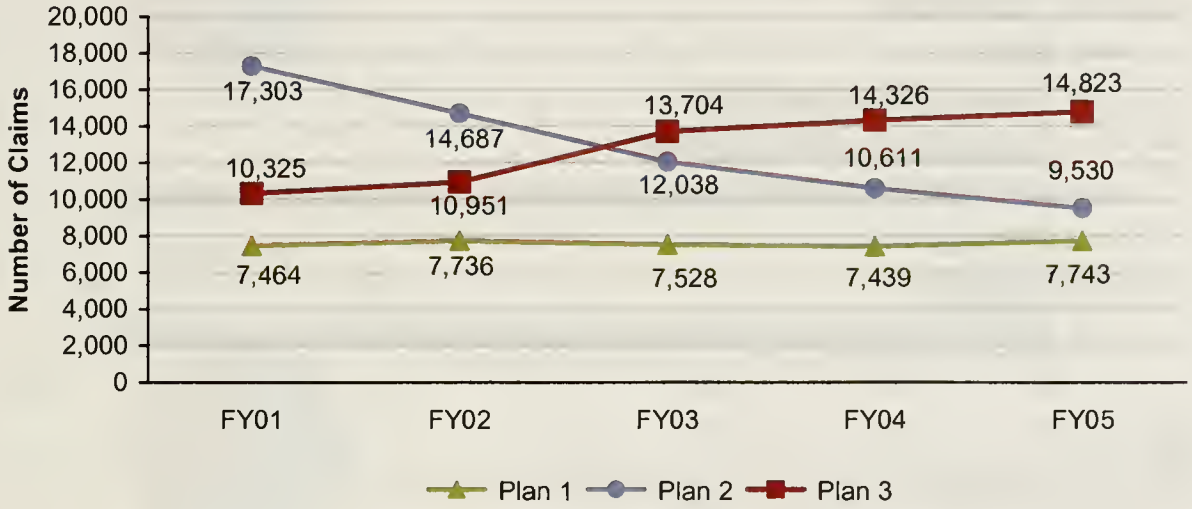
INSURER DENIAL OF CLAIMS

FATAL OCCUPATIONAL INJURIES—2004

Comparison of Claims by Plan Type

This section provides the most current summary available on reported claims through FY05. The information is based on First Reports of Injury and Occupational Disease received by the department. Both medical only and indemnity claims are included.

Exhibit 2.1
Reported Claims[1] - Five Year Trend
By Plan Type[2]



Notes:
[1]Total claim numbers continually change due to reporting.
[2]Plan types: Plan 1 – Self Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund.

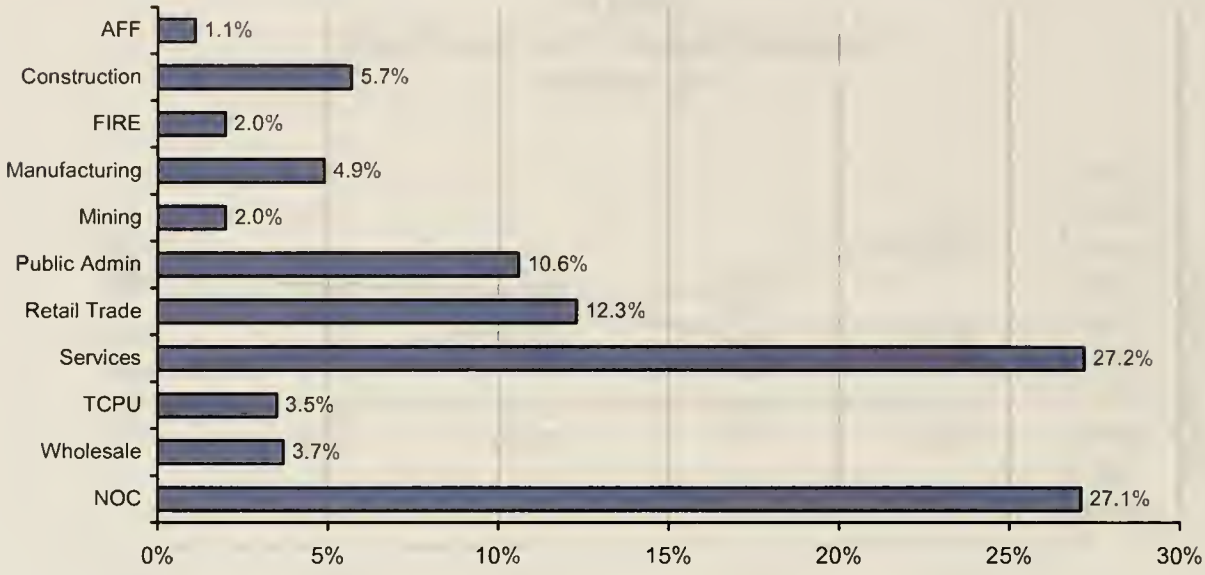
Exhibit 2.2
Reported Claims[1]
By Plan Type[2] and Fiscal Year of Injury

	FY01		FY02		FY03		FY04		FY05	
Plan Type	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	7,464	21.2%	7,736	23.1%	7,528	22.6%	7,439	22.9%	7,743	24.1%
Plan 2	17,303	49.2%	14,687	43.9%	12,038	36.1%	10,611	32.7%	9,530	29.6%
Plan 3	10,325	29.3%	10,951	32.7%	13,704	41.1%	14,326	44.2%	14,823	46.1%
UEF	111	0.3%	68	0.2%	51	0.2%	67	0.2%	68	0.2%
Total	***35,203***	***100%***	***33,442***	***100%***	***33,321***	***100%***	***32,443***	***100%***	***32,164***	***100%***

Notes:
[1]Total claim numbers continually change due to reporting.
[2]Plan types: Plan 1 – Self Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund.

Injured Worker Characteristics

Exhibit 2.3
Reported Claims - FY05
By Standard Industrial Classification Major Groups[1]



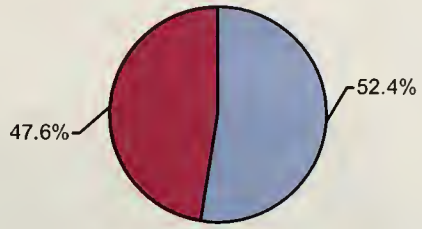
Notes:
[1]Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987*.
AFF means Agriculture, Forestry and Fishing.
FIRE means Finance, Insurance and Real Estate.
TCPU means Transportation, Communication and Public Utilities.
NOC means Not Otherwise Classified.

Exhibit 2.4
Reported Claims[1]
By Standard Industrial Classification Major Groups[2] and Fiscal Year of Injury

Standard Industrial Classification	FY01		FY02		FY03		FY04		FY05	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Agriculture, Forestry & Fishing (AFF)	421	1.2%	372	1.1%	431	1.3%	356	1.1%	341	1.1%
Construction	2,508	7.1%	2,264	6.8%	2,110	6.3%	1,988	6.1%	1,842	5.7%
Finance, Insurance & Real Estate (FIRE)	959	2.7%	599	1.8%	730	2.2%	677	2.1%	647	2.0%
Manufacturing	2,696	7.7%	2,424	7.2%	2,195	6.6%	1,800	5.5%	1,581	4.9%
Mining	600	1.7%	551	1.6%	468	1.4%	607	1.9%	644	2.0%
Public Administration	3,266	9.3%	3,746	11.2%	3,649	11.0%	3,180	9.8%	3,404	10.6%
Retail Trade	4,982	14.2%	4,705	14.1%	4,346	13.0%	4,378	13.5%	3,947	12.3%
Services	8,873	25.2%	8,055	24.1%	8,481	25.5%	8,342	25.7%	8,738	27.2%
Transportation, Communication & Public Utilities (TCPU)	1,617	4.6%	1,419	4.2%	1,306	3.9%	1,200	3.7%	1,126	3.5%
Wholesale Trade	1,580	4.5%	1,417	4.2%	1,384	4.2%	1,235	3.8%	1,177	3.7%
NOC[3]	7,701	21.9%	7,890	23.6%	8,221	24.7%	8,680	26.8%	8,717	27.1%
Total	***35,203***	***100%***	***33,442***	***100%***	***33,321***	***100%***	***32,443***	***100%***	***32,164***	***100%***

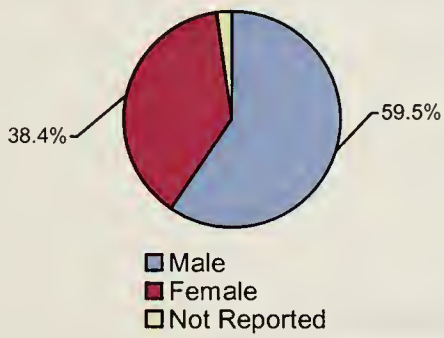
Notes:
[1]Some counts may vary slightly from previous reports due to corrections from insurers.
[2]Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987*.
[3]NOC means Not Otherwise Classified.

Exhibit 2.5
Employed Population Composition[1] - CY04



According to the U.S. Department of Labor, the 2004 employed population in Montana was almost equally divided between male and female workers, with males at just over 52% of the total workforce.

Exhibit 2.6
Reported Claims - CY04



Despite a relatively balanced workforce, male claims accounted for almost 60% of the total reported injuries in CY04. While male employees make up less than 5% more of the total workforce than female employees, male workers still experienced over 20% more of the total claim related injuries.

Exhibit 2.7
Reported Claims
By Gender and Fiscal Year of Injury

	FY01		FY02		FY03		FY04		FY05	
Gender	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Female	13,554	38.5%	12,886	38.5%	13,022	39.1%	12,485	38.5%	12,619	39.2%
Male	21,457	61.0%	20,455	61.2%	19,793	59.4%	19,316	59.5%	18,868	58.7%
Not Reported	192	0.5%	101	0.3%	506	1.5%	642	2.0%	677	2.1%
Total	***35,203***	***100%***	***33,442***	***100%***	***33,321***	***100%***	***32,443***	***100%***	***32,164***	***100%***

Notes:
[1] Based on total employed population of 462,000 (242,000 male and 220,000 female); figures provided by U.S. Department of Labor, Bureau of Labor Statistics, "*Employment status of the civilian noninstitutional population in states by sex, race, Hispanic or Latino ethnicity, marital status, and detailed age*", http://stats.bls.gov/lau/home.htm

Exhibit 2.8

Reported Claims - FY05

By Standard Industrial Classification Major Groups[1] and Gender

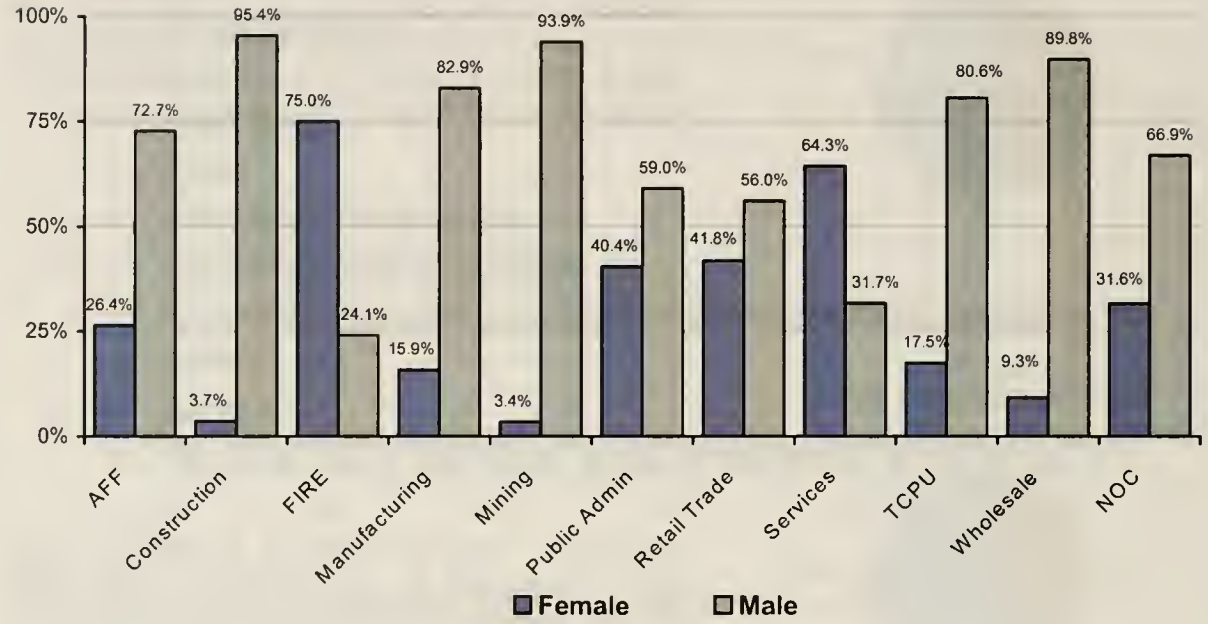


Exhibit 2.9

Reported Claims - FY05

By Standard Industrial Classification Major Groups[1] and Gender

Standard Industrial Classification	Female		Male		Not Reported		Total	
	Count	Percent[2]	Count	Percent[2]	Count	Percent[2]	Count	Percent[2]
Agriculture, Forestry & Fishing (AFF)	90	26.4%	248	72.7%	3	0.9%	341	100%
Construction	68	3.7%	1,757	95.4%	17	0.9%	1,842	100%
Finance, Insurance & Real Estate (FIRE)	485	75.0%	156	24.1%	6	0.9%	647	100%
Manufacturing	251	15.9%	1,310	82.9%	20	1.3%	1,581	100%
Mining	22	3.4%	605	93.9%	17	2.6%	644	100%
Public Administration	1,376	40.4%	2,008	59.0%	20	0.6%	3,404	100%
Retail Trade	1,649	41.8%	2,210	56.0%	88	2.2%	3,947	100%
Services	5,615	64.3%	2,774	31.7%	349	4.0%	8,738	100%
Transportation, Communication and Public Utilities (TCPU)	197	17.5%	907	80.6%	22	2.0%	1,126	100%
Wholesale Trade	110	9.3%	1,057	89.8%	10	0.8%	1,177	100%
NOC[2] SIC codes	2,756	31.6%	5,836	66.9%	125	1.4%	8,717	100%
Total	***12,619***	***39.2%***	***18,868***	***58.7%***	***677***	***2.1%***	***32,164***	***100%***

Notes:

[1]Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*

[2]Percentages based on total claims per SIC code, including female, male, and "Not Reported" gender types.

Exhibit 2.10

Reported Claims - FY05

By Nature of Injury[1]

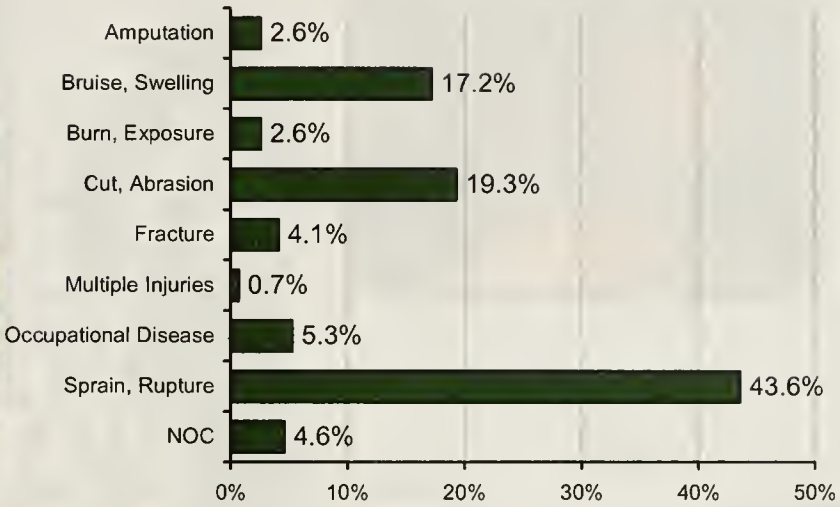


Exhibit 2.11

Reported Claims

By Nature of Injury[1] and Fiscal Year of Injury

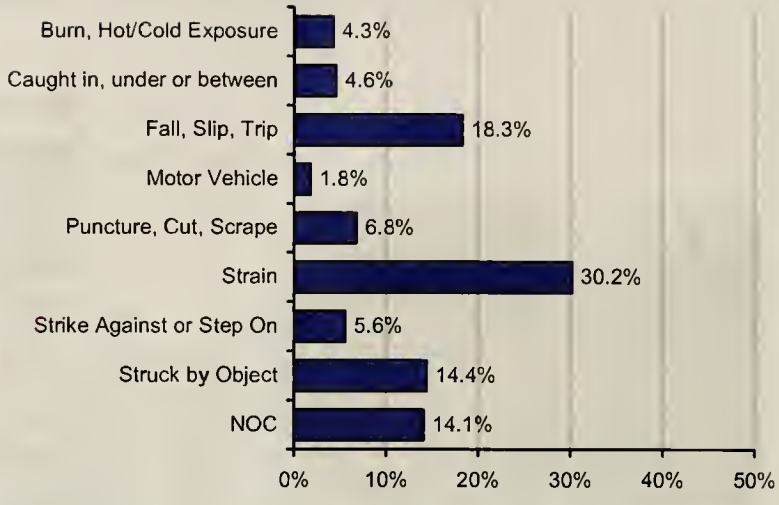
	FY01		FY02		FY03		FY04		FY05	
Nature of Injury	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Amputation	681	1.9%	656	2.0%	783	2.3%	787	2.4%	830	2.6%
Bruise, Swelling	5,652	16.1%	5,094	15.2%	5,535	16.6%	5,449	16.8%	5,545	17.2%
Burn, Exposure	904	2.6%	933	2.8%	775	2.3%	821	2.5%	845	2.6%
Cut, Abrasion	7,098	20.2%	6,776	20.3%	6,613	19.8%	6,420	19.8%	6,223	19.3%
Fracture	1,505	4.3%	1,437	4.3%	1,451	4.4%	1,364	4.2%	1,327	4.1%
Multiple Injuries	357	1.0%	253	0.8%	228	0.7%	219	0.7%	214	0.7%
Occupational Disease	1,972	5.6%	1,828	5.5%	1,831	5.5%	1,655	5.1%	1,704	5.3%
Sprain, Rupture	14,401	40.9%	14,285	42.7%	14,499	43.5%	14,421	44.5%	14,011	43.6%
NOC[2]	2,633	7.5%	2,180	6.5%	1,606	4.8%	1,307	4.0%	1,465	4.6%
Total	***35,203***	***100%***	***33,442***	***100%***	***33,321***	***100%***	***32,443***	***100%***	***32,164***	***100%***

Notes:
[1]Source: International Association of Industrial Accident Boards and Commissions (IAIABC).
[2]NOC means Not Otherwise Classified.

Exhibit 2.12

Reported Claims - FY05

By Cause of Injury[1]



Reported Claims

By Cause of Injury[1] and Fiscal Year of Injury

Exhibit 2.13

	FY01		FY02		FY03		FY04		FY05	
Cause of Injury	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Burn, Hot/Cold Exposure	1,341	3.8%	1,426	4.3%	1,273	3.8%	1,319	4.1%	1,379	4.3%
Caught In, Under or Between	1,489	4.2%	1,407	4.2%	1,613	4.8%	1,519	4.7%	1,477	4.6%
Fall, Slip, Trip	6,776	19.2%	5,918	17.7%	5,994	18.0%	6,031	18.6%	5,876	18.3%
Motor Vehicle	656	1.9%	596	1.8%	579	1.7%	639	2.0%	565	1.8%
Puncture, Cut, Scrape	2,963	8.4%	2,701	8.1%	2,316	7.0%	2,144	6.6%	2,195	6.8%
Strain	10,375	29.5%	10,145	30.3%	10,204	30.6%	9,630	29.7%	9,708	30.2%
Strike Against or Step On	2,012	5.7%	2,001	6.0%	1,911	5.7%	2,007	6.2%	1,800	5.6%
Struck by Object	4,576	13.0%	4,570	13.7%	4,627	13.9%	4,553	14.0%	4,633	14.4%
NOC[2]	5,015	14.2%	4,678	14.0%	4,804	14.4%	4,601	14.2%	4,531	14.1%
Total	***35,203***	***100%***	***33,442***	***100%***	***33,321***	***100%***	***32,443***	***100%***	***32,164***	***100%***

Reported Claims – FY05

By Industry and Cause of Injury[1]

Exhibit 2.14

Industry	Burn Exposure	Caught in or Between	Puncture, Cut by	Fall, Slip, Trip	Vehicle Related	Strain, Jump, Lift	Hit against, Step on	Struck by	All Others	NOC	Totals
AFF	2.9%	8.2%	2.3%	18.2%	3.2%	28.2%	4.7%	21.4%	10.6%	0.3%	100%
Construction	3.0%	4.8%	10.0%	16.5%	2.0%	26.9%	5.4%	16.0%	15.3%	0.2%	100%
FIRE	3.1%	4.2%	3.7%	23.6%	1.9%	30.1%	4.0%	9.9%	19.3%	0.2%	100%
Manufacturing	3.9%	7.0%	6.8%	11.9%	1.1%	31.6%	5.6%	12.7%	19.0%	0.6%	100%
Mining	6.5%	8.2%	5.1%	13.0%	3.7%	22.2%	6.1%	16.6%	18.5%	0.0%	100%
Public Agencies	6.9%	2.9%	3.3%	19.1%	2.1%	24.8%	5.6%	19.6%	15.8%	0.0%	100%
Retail Trade	4.6%	4.1%	10.5%	16.4%	0.9%	34.7%	5.5%	11.8%	11.1%	0.3%	100%
Services	4.0%	4.1%	6.7%	20.0%	1.4%	29.9%	5.0%	14.9%	13.8%	0.1%	100%
TCPU	2.7%	3.3%	4.3%	20.2%	3.7%	33.7%	5.4%	13.3%	13.2%	0.1%	100%
Wholesale Trade	2.2%	5.6%	6.6%	15.0%	2.0%	37.3%	6.1%	12.5%	12.3%	0.3%	100%
Not Reported	4.2%	5.1%	6.9%	18.8%	2.0%	30.2%	6.4%	13.3%	12.8%	0.4%	100%
% of Total Injuries	***4.3%***	***4.6%***	***6.8%***	***18.3%***	***1.8%***	***30.2%***	***5.6%***	***14.4%***	***13.9%***	***0.2%***	***100%***

Notes:

[1]Source: International Association of Industrial Accident Boards and Commissions (IAIABC).

[2]NOC means Not Otherwise Classified.

Exhibit 2.15

Reported Claims – FY05

By Part of Body[1]

Exhibit 2.16

Reported Claims

By Part of Body[1] and Fiscal Year of Injury

	FY01		FY02		FY03		FY04		FY05	
Part of Body	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Back	6,891	19.6%	6,606	19.8%	6,646	19.9%	6,588	20.3%	6,505	20.2%
Head	3,850	10.9%	3,814	11.4%	3,774	11.3%	3,648	11.2%	3,522	11.0%
Knees	2,386	6.8%	2,334	7.0%	2,476	7.4%	2,557	7.9%	2,423	7.5%
Lower Extremities	3,644	10.4%	3,517	10.5%	3,585	10.8%	3,439	10.6%	3,534	11.0%
Multiple Parts	2,512	7.1%	1,854	5.5%	1,655	5.0%	1,368	4.2%	1,654	5.1%
Neck	755	2.1%	763	2.3%	828	2.5%	810	2.5%	778	2.4%
Trunk	2,048	5.8%	2,109	6.3%	2,089	6.3%	2,099	6.5%	2,126	6.6%
Upper Extremitites	11,056	31.4%	10,563	31.6%	10,424	31.3%	10,118	31.2%	9,859	30.7%
Wrist	1,714	4.9%	1,690	5.1%	1,644	4.9%	1,619	5.0%	1,519	4.7%
All Other Claims, NOC[2]	347	1.0%	192	0.6%	200	0.6%	197	0.6%	244	0.8%
Total	***$35,203***	***100%***	***$33,442***	***100%***	***$33,321***	***100%***	***$32,443***	***100%***	***$32,164***	***100%***

Notes:
[1]Source: International Association of Industrial Accident Boards and Commissions (IAIABC).
[2]NOC means Not Otherwise Classified.

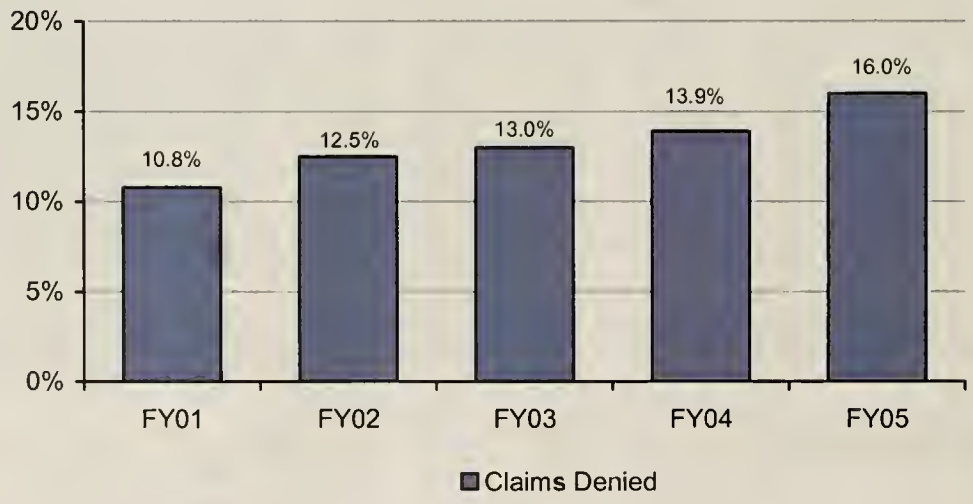
Insurer Denial of Claims

Exhibit 2.17
Insurer Denial of Claims[1]
By Reason of Denial and Fiscal Year of Injury

Reason for Claim Denial		FY01	FY02	FY03	FY04	FY05
Coverage Issue	Corporate officer rejected	1	1	1	3	5
	Elects no coverage	6	2	4	3	1
	Independent Contractor issue	6	2	1	2	6
	Question which insurer liable	20	20	19	19	11
	No coverage	31	16	9	22	14
Definition of Injury	Heart attack - not caused by accident	6	13	11	16	22
	Does not meet definition of injury	377	404	504	312	511
	Does not meet definition of Occupational Disease	52	68	69	75	71
	Stress - not compensable	32	29	27	27	19
Insufficient Information	Incomplete or missing information necessary to accept liability	181	117	55	52	97
Late Claim Filing	Injury	57	68	85	77	49
	Occupational Disease	2	2	1	0	0
No Employer Notice	No 30-day notice to employer or insurer	154	149	148	204	201
Not in Course & Scope	Not in course and scope of employment	235	227	266	364	392
No Objective Medical	No objective medical findings to substantiate injury	2,061	2,603	2,767	3,022	3,570
Other	Other	592	463	384	398	432
Total		***3,813***	***4,184***	***4,351***	***4,596***	***5,401***

Note:
[1]The insurer may later accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.

Exhibit 2.18
Insurer Denial of Claims[1]
By Percent and Fiscal Year of Injury



Note:
[1]The insurer may later accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.

Fatal Occupational Injuries-2004

an excerpt from the 2004 Census of Fatal Occupational Injuries[1]

Thousands of workers in Montana are injured each year in work-related accidents. Some of these result in death. Many of the accidents could have been avoided if the employers and employees involved took proper safety measures to prevent them.

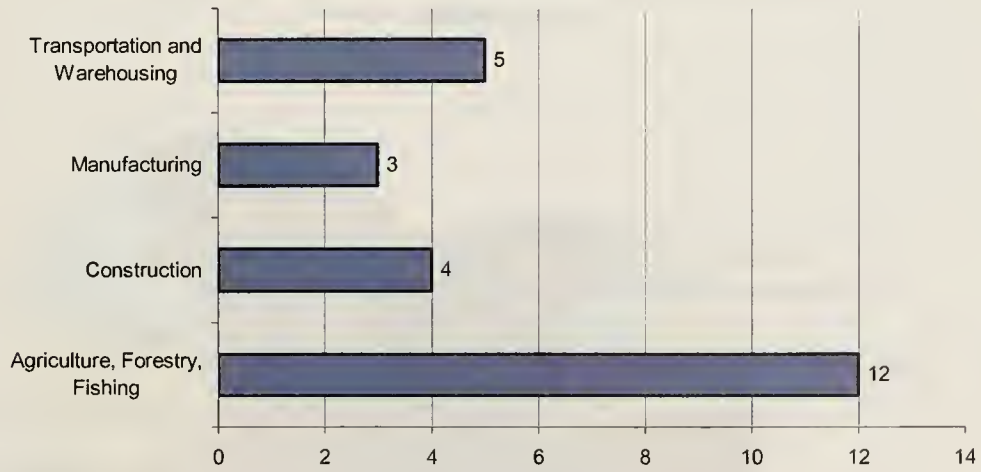
This report provides information gathered by the Census of Fatal Occupational Injuries (CFOI) program, Research and Analysis Bureau, Montana Department of Labor and Industry, on fatal occupational accidents that occurred in Montana during calendar year 2004. The Occupational Safety and Health Act of 1970, and Title 29, Part 1904 of the Code of Federal Regulations state:

> Within 8 hours after the occurrence of an employment accident which is fatal to one or more employees, or which results in hospitalization of three or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor. The reporting may be by telephone. The report shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The Area Director may require such additional reports in writing or otherwise, as they deem necessary, concerning the accident.

Summary

Overall, there were a total of 39 job-related fatalities in Montana in 2004. The following chart shows Occupational Fatalities by Industry.

Exhibit 2.19
Fatal Work Injuries in Selected Industries
Montana 2004



Total Number of Fatalities in 2004 – 39

Totals include data for Fatalities by Industry not shown separately, that do not meet publication criteria.

[1] This report was published by the Montana Department of Labor and Industry, Research and Analysis Bureau. The complete report may be viewed at: http://www.ourfactsyourfuture.org/ under 'Publications and Articles'.

Exhibit 2.20
Occupational Fatalities by Gender
Montana 2004

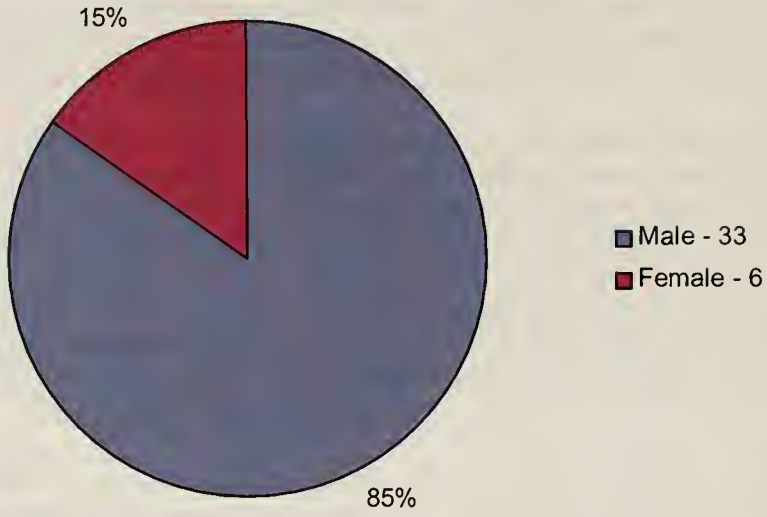
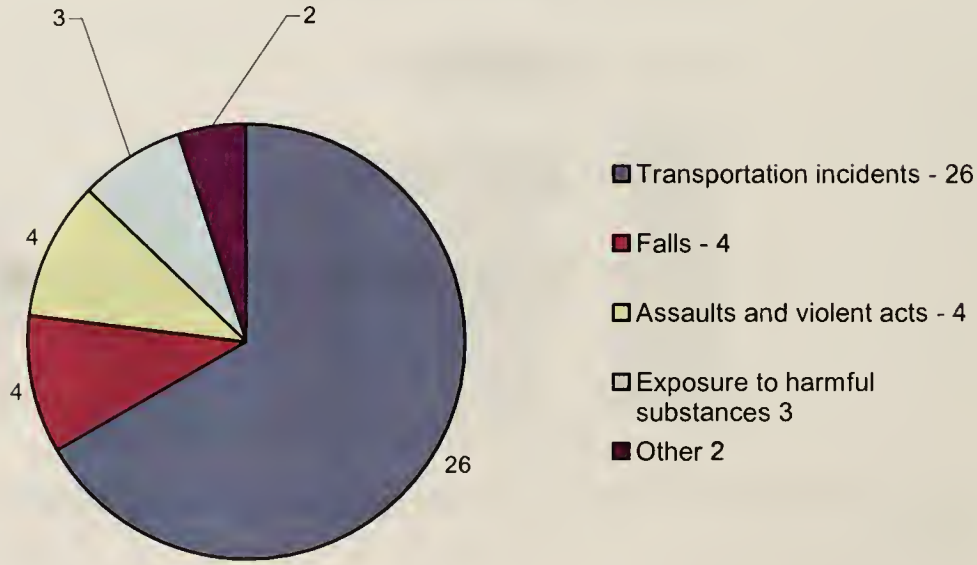


Exhibit 2.21
Workplace Fatalities by Event or Exposure
Montana 2004

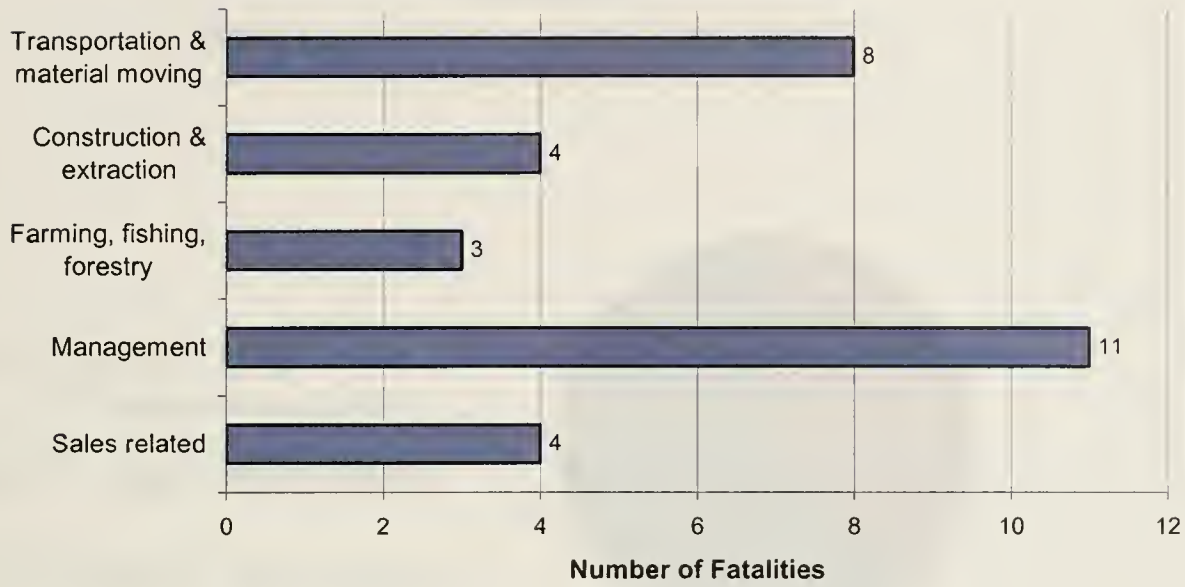


Total Number of Fatalities in 2004 - 39

Exhibit 2.22

Occupations with the Largest Number of Fatalities

Montana 2004



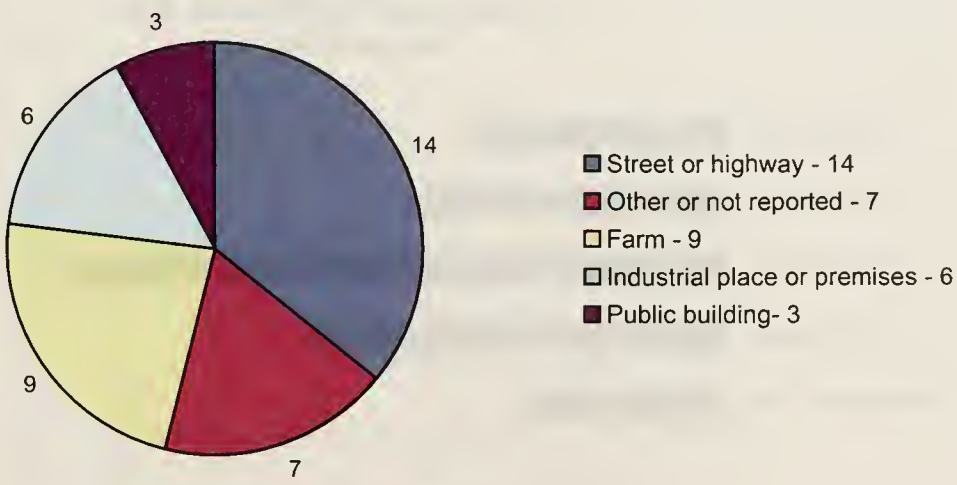
Total Number of Fatalities in 2004 – 39

Totals include data for Occupations not shown separately, that do not meet publication criteria.

Exhibit 2.23

Fatal Work Injuries by Location

Montana 2004

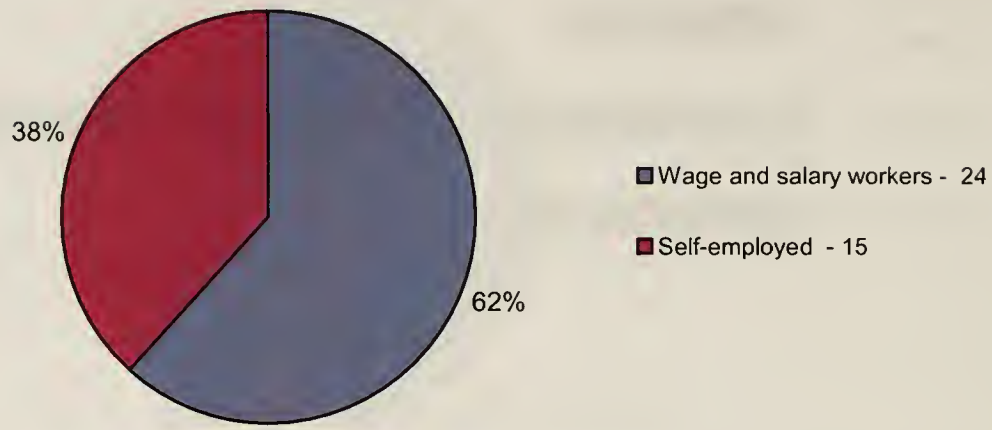


Total Number of Fatalities in 2004 – 39

Exhibit 2.24

Occupational Fatalities by Employee Status

Montana 2004

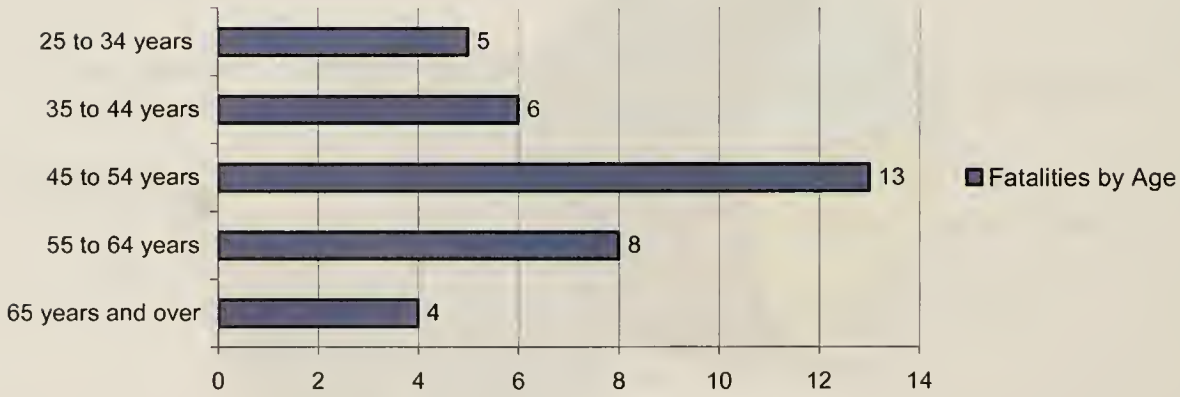


Total number of Fatalities in 2004 – 39

Exhibit 2.25

Occupational Fatalities by Age

Montana 2004



Total Number of Fatalities in 2004 – 39

Totals include data for Age not shown separately, that do not meet publication criteria.

Benefits

TOTAL BENEFITS

BENEFIT REPORT DATA

SETTLEMENT DOLLARS

ATTORNEY FEES

Total Benefits

An "indemnity claim" is a workers' compensation or occupational disease claim where wage loss benefits, in addition to medical benefits, are being paid or are likely to be paid in the future. Totals represent indemnity benefits paid to the injured worker and medical benefits paid to hospitals, doctors and other health care providers as reported to the DLI. Benefit totals have been updated since the publication of previous annual reports due to the receipt of amended expenditure reports.

Exhibit 3.1

Total Benefits Paid - FY05

By Plan Type[1]

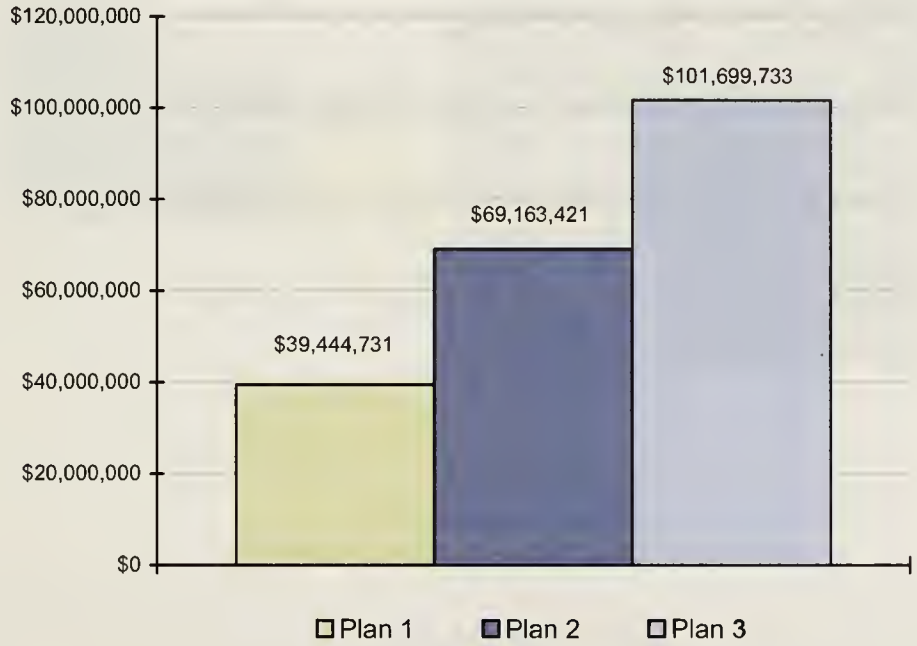


Exhibit 3.2

Total Benefits Paid

By Plan Type[1] and Fiscal Year of Payment

Plan Type[1]	FY01	FY02	FY03	FY04	FY05
Plan 1	29,141,324	31,865,950	34,866,131	39,687,598	39,444,731
Plan 2	79,341,672	69,983,989	73,889,121	67,663,530	69,163,421
Plan 3	70,893,570	75,735,063	91,798,520	103,416,233	101,699,733
Total[2]	***$179,376,566***	***$177,585,002[3]***	***$200,553,772***	***$210,767,361***	***$210,307,885***

Notes:

[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

[2]Total benefits represent indemnity and medical, from DLI Quarterly Expenditure Reports as of 04-03-2006.

[3]FY02 Total Benefits Paid was corrected in this year's report.

Exhibit 3.3

Medical Payments - FY05

By Plan Type[1]

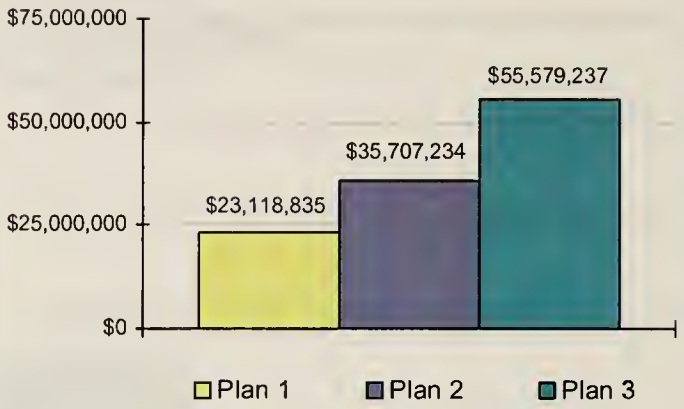


Exhibit 3.4

Medical Payments

By Plan Type[1] and Fiscal Year of Payment

Plan Type[1]	FY01	FY02	FY03	FY04	FY05
Plan 1	15,791,261	17,626,880	19,960,057	22,770,056	23,118,835
Plan 2	41,626,961	36,012,896	37,705,229	34,524,486	35,707,234
Plan 3	35,656,851	40,571,820	51,404,831	58,018,771	55,579,237
Total[2]	***$93,075,073***	***$94,211,596***	***$109,070,117***	***$115,313,313***	***$114,405,306***

Notes:

[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

[2]Total benefits represent medical payments, from DLI Quarterly Expenditure Reports as of 04-03-2006.

Exhibit 3.5

Indemnity Payments - FY05

By Plan Type[1]

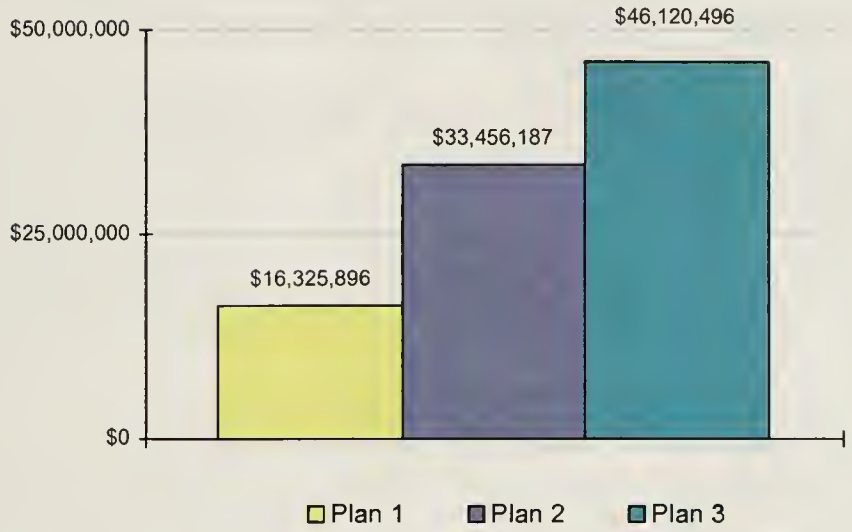


Exhibit 3.6

Indemnity Payments

By Plan Type[1] and Fiscal Year of Payment

Plan Type[1]	FY01	FY02	FY03	FY04	FY05
Plan 1	13,350,062	14,239,070	14,906,074	16,917,542	16,325,896
Plan 2	37,714,712	33,971,093	36,183,892	33,139,044	33,456,187
Plan 3	35,236,719	35,163,243	40,393,689	45,397,462	46,120,496
Total[2]	***$86,301,493***	***$83,373,406***	***$91,483,655***	***$95,454,048***	***$95,902,579***

Notes:

[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

[2]Total benefits represent indemnity payments, from DLI Quarterly Expenditure Reports as of 04-03-2006.

Benefit Report Data

The department currently requires insurance companies to submit Subsequent Reports of Injury (SROIs) at six month intervals throughout the life of an indemnity claim. The SROI report provides updates as to the status of an indemnity claim, including information on the medical and wage loss benefits paid. In an effort to better evaluate the long-term costs of claims, ERD contracted Insurance Services Office, Inc. (ISO) to process the SROI data and present it in a form that would be more conducive to analysis. Accordingly, ISO developed the following tables, which detail the cumulative costs of claims over the past six fiscal years[1] (FY), beginning with injuries sustained in FY00.

- Exhibits 3.7 and 3.8 report indemnity benefits and medical benefits.
- Exhibits 3.9 through 3.12 break indemnity benefits down into the four primary categories (excluding lump sum payments): temporary total, temporary partial, permanent partial, and permanent total.
- Exhibits 3.13 through 3.15 divide medical benefits into three groups (excluding lump sum payments): payments to physicians, hospital costs, and other medical provider costs.
- Exhibit 3.16 provides a combined total of the data contained in tables 3.13 through 3.15.
- Exhibits 3.17 and 3.18 report lump sum payments of indemnity benefits and medical benefits.
- Exhibit 3.19 reports vocational rehabilitation benefits paid.

Each table consists of six rows of data; each row holds information pertaining to injuries sustained during the fiscal year shown in the "Injury Year" column. The columns report cumulative totals of claims, as well as the average and median benefits paid through the column's given year, grouped by the fiscal year of the benefit type's Paid Through Date (PTD). The "First Year" column provides the number of claims receiving the given benefit type within the same fiscal year as the injury; it also gives the average and median[2] benefits paid on those claims. The "Second Year" through "Sixth Year" columns report cumulative claim totals, average benefits, and median benefits as more benefits are paid and/or more claimants begin receiving benefits. Consequently, the right-most populated column of each row contains the most current (as of FY05 year-end) figures pertaining to the accumulated claimant count, average claim cost, and median claim cost for injuries sustained in the year assigned to that row.

> Example: A SROI is submitted on an injury that occurred in FY 2000; the given benefit type is reportedly paid through 4/9/2003. Because 2003 is the fourth year since the fiscal year of injury (counting the injury year as the first), this claim will be reported in the 'Fourth Year' column of the 2000 row.

Notes:

[1] Fiscal Year (FY) is defined as July 1 through June 30; FY05 ended on June 30, 2005

[2] See definition of "median" in the "Definitions" section of the Appendices

Exhibit 3.7

Total Wage Replacement: TTD, TPD, PTD, PPD, including Lump Sums

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	3,373					
	Avg Cost/Case	$2,467					
	Median	$908					
2004	# of Cases	3,458	4,640				
	Avg Cost/Case	$2,341	$5,658				
	Median	$906	$1,773				
2003	# of Cases	3,450	4,653	4,882			
	Avg Cost/Case	$2,350	$6,206	$8,849			
	Median	$883	$2,049	$2,500			
2002	# of Cases	3,254	4,406	4,650	4,716		
	Avg Cost/Case	$2,212	$6,122	$8,732	$10,168		
	Median	$898	$2,157	$2,662	$2,824		
2001	# of Cases	3,263	4,363	4,561	4,645	4,677	
	Avg Cost/Case	$2,131	$5,464	$8,089	$9,904	$10,951	
	Median	$843	$2,000	$2,525	$2,764	$2,847	
2000	# of Cases	3,194	4,194	4,411	4,458	4,478	4,497
	Avg Cost/Case	$1,883	$4,625	$6,787	$8,240	$9,180	$9,841
	Median	$787	$1,659	$2,066	$2,231	$2,231	$2,246

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Exhibit 3.8

Total Medical Costs, including Lump Sums

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	2,762					
	Avg Cost/Case	$4,231					
	Median	$1,608					
2004	# of Cases	2,034	4,498				
	Avg Cost/Case	$3,682	$7,824				
	Median	$1,268	$4,130				
2003	# of Cases	2,212	3,634	4,595			
	Avg Cost/Case	$4,089	$7,517	$10,119			
	Median	$1,724	$4,032	$5,138			
2002	# of Cases	2,185	3,757	4,065	4,415		
	Avg Cost/Case	$3,791	$7,968	$9,900	$11,205		
	Median	$1,467	$3,932	$4,651	$4,952		
2001	# of Cases	2,057	3,657	3,872	3,980	4,213	
	Avg Cost/Case	$3,680	$7,063	$8,788	$10,187	$11,421	
	Median	$1,441	$3,688	$4,363	$4,599	$4,909	
2000	# of Cases	2,043	3,492	3,923	3,993	4,019	4,113
	Avg Cost/Case	$2,921	$5,460	$7,606	$8,562	$9,462	$10,274
	Median	$1,169	$2,660	$3,693	$3,921	$4,008	$4,111

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Exhibit 3.9

Wage Replacement: Temporary Total Disability

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	3,142					
	Avg Cost/Case	$1,989					
	Median	$796					
2004	# of Cases	3,193	4,095				
	Avg Cost/Case	$1,822	$3,681				
	Median	$773	$1,350				
2003	# of Cases	3,179	4,095	4,238			
	Avg Cost/Case	$2,007	$4,124	$5,311			
	Median	$811	$1,440	$1,636			
2002	# of Cases	3,026	3,877	4,013	4,046		
	Avg Cost/Case	$1,854	$4,168	$5,406	$5,909		
	Median	$802	$1,541	$1,724	$1,799		
2001	# of Cases	3,043	3,849	3,966	4,028	4,054	
	Avg Cost/Case	$1,785	$3,861	$5,150	$5,998	$6,377	
	Median	$778	$1,442	$1,663	$1,734	$1,756	
2000	# of Cases	2,952	3,746	3,874	3,907	3,922	3,933
	Avg Cost/Case	$1,593	$3,200	$4,451	$5,158	$5,525	$5,683
	Median	$713	$1,299	$1,493	$1,533	$1,541	$1,566

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Exhibit 3.10

Wage Replacement: Temporary Partial Disability

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	474					
	Avg Cost/Case	$866					
	Median	$469					
2004	# of Cases	544	791				
	Avg Cost/Case	$957	$1,506				
	Median	$487	$574				
2003	# of Cases	491	754	791			
	Avg Cost/Case	$860	$1,580	$2,073			
	Median	$431	$673	$718			
2002	# of Cases	453	695	746	755		
	Avg Cost/Case	$977	$1,603	$1,850	$1,917		
	Median	$473	$660	$739	$733		
2001	# of Cases	430	662	697	715	719	
	Avg Cost/Case	$1,002	$1,626	$1,835	$1,988	$2,002	
	Median	$517	$701	$754	$768	$768	
2000	# of Cases	412	616	660	667	672	674
	Avg Cost/Case	$872	$1,361	$1,581	$1,699	$1,744	$1,752
	Median	$414	$572	$620	$625	$630	$629

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Exhibit 3.11

Wage Replacement: Permanent Partial Disability

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	259					
	Avg Cost/Case	$4,826					
	Median	$2,123					
2004	# of Cases	266	1,101				
	Avg Cost/Case	$4,186	$6,131				
	Median	$1,825	$3,409				
2003	# of Cases	265	1,195	1,605			
	Avg Cost/Case	$2,659	$5,576	$7,324			
	Median	$1,064	$3,303	$4,122			
2002	# of Cases	201	1,073	1,536	1,689		
	Avg Cost/Case	$3,465	$5,454	$6,862	$7,894		
	Median	$1,589	$3,178	$3,972	$3,972		
2001	# of Cases	219	1,065	1,472	1,625	1,681	
	Avg Cost/Case	$3,435	$4,783	$6,270	$7,523	$8,086	
	Median	$1,536	$3,066	$3,841	$3,841	$4,087	
2000	# of Cases	220	899	1,259	1,384	1,441	1,466
	Avg Cost/Case	$2,411	$4,799	$5,776	$6,651	$7,306	$7,717
	Median	$1,488	$2,727	$3,000	$3,704	$3,719	$3,719

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Exhibit 3.12

Wage Replacement: Permanent Total Disability

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	0					
	Avg Cost/Case	$0					
	Median	$0					
2004	# of Cases	0	3				
	Avg Cost/Case	$0	$25,989				
	Median	$0	$20,000				
2003	# of Cases	0	9	17			
	Avg Cost/Case	$0	$33,758	$41,842			
	Median	$0	$27,434	$27,434			
2002	# of Cases	0	5	16	32		
	Avg Cost/Case	$0	$11,680	$34,869	$35,253		
	Median	$0	$6,949	$17,307	$19,584		
2001	# of Cases	1	3	11	25	40	
	Avg Cost/Case	$12,000	$11,912	$13,186	$19,249	$35,501	
	Median	$12,000	$12,000	$7,910	$12,000	$26,273	
2000	# of Cases	0	3	11	23	33	45
	Avg Cost/Case	$0	$20,388	$28,371	$32,105	$32,740	$50,773
	Median	$0	$17,600	$26,662	$25,464	$20,094	$40,249

SOURCE: Data provided by State of Montana WCAP database; figures recalculated by ERD based on corrections to reporting errors.

Exhibit 3.13

Medical Costs: Payments to Physicians Paid to Date

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	2,054					
	Avg Cost/Case	$1,683					
	Median	$737					
2004	# of Cases	1,538	4,142				
	Avg Cost/Case	$1,560	$2,744				
	Median	$640	$1,476				
2003	# of Cases	1,791	3,435	4,349			
	Avg Cost/Case	$1,725	$2,836	$3,534			
	Median	$791	$1,462	$1,866			
2002	# of Cases	1,744	3,547	3,856	4,164		
	Avg Cost/Case	$1,482	$2,727	$3,349	$3,654		
	Median	$663	$1,442	$1,744	$1,839		
2001	# of Cases	1,674	3,440	3,661	3,767	3,972	
	Avg Cost/Case	$1,374	$2,564	$3,118	$3,552	$3,852	
	Median	$612	$1,388	$1,707	$1,810	$1,905	
2000	# of Cases	1,703	3,218	3,688	3,759	3,785	3,881
	Avg Cost/Case	$1,174	$2,013	$2,715	$2,986	$3,220	$3,381
	Median	$492	$950	$1,408	$1,508	$1,540	$1,569

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Exhibit 3.14

Medical Costs: Payments to Hospitals

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	1,672					
	Avg Cost/Case	$3,413					
	Median	$1,459					
2004	# of Cases	1,124	3,394				
	Avg Cost/Case	$3,100	$4,561				
	Median	$1,123	$2,101				
2003	# of Cases	1,302	2,708	3,544			
	Avg Cost/Case	$3,181	$4,310	$5,427			
	Median	$1,336	$2,043	$2,377			
2002	# of Cases	1,296	2,862	3,150	3,416		
	Avg Cost/Case	$2,956	$4,733	$5,454	$5,779		
	Median	$1,090	$1,892	$2,090	$2,191		
2001	# of Cases	1,233	2,762	2,969	3,065	3,246	
	Avg Cost/Case	$2,823	$4,046	$4,835	$5,336	$5,865	
	Median	$1,097	$1,779	$2,012	$2,087	$2,128	
2000	# of Cases	1,209	2,503	2,948	3,021	3,045	3,125
	Avg Cost/Case	$2,305	$3,204	$4,239	$4,663	$4,980	$5,230
	Median	$903	$1,415	$1,876	$1,953	$2,000	$2,024

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Exhibit 3.15

Medical Costs: Payments to other Medical Providers

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	2,507					
	Avg Cost/Case	$1,006					
	Median	$384					
2004	# of Cases	1,761	4,077				
	Avg Cost/Case	$911	$2,047				
	Median	$340	$801				
2003	# of Cases	1,902	3,187	4,115			
	Avg Cost/Case	$953	$1,847	$2,886			
	Median	$437	$778	$1,007			
2002	# of Cases	1,861	3,285	3,592	3,941		
	Avg Cost/Case	$1,004	$2,036	$2,800	$3,660		
	Median	$400	$799	$947	$1,009		
2001	# of Cases	1,741	3,213	3,424	3,537	3,766	
	Avg Cost/Case	$1,027	$1,789	$2,385	$3,026	$3,604	
	Median	$424	$809	$938	$1,010	$1,102	
2000	# of Cases	1,638	2,958	3,383	3,452	3,479	3,567
	Avg Cost/Case	$711	$1,534	$2,157	$2,556	$3,027	$3,544
	Median	$298	$512	$750	$795	$816	$857

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Exhibit 3.16

Medical Costs: Paid to Physicians, Hospitals and Other Medical Providers

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	2,761					
	Avg Cost/Case	$4,232					
	Median	$1,609					
2004	# of Cases	2,034	4,498				
	Avg Cost/Case	$3,682	$7,824				
	Median	$1,268	$4,130				
2003	# of Cases	2,210	3,634	4,595			
	Avg Cost/Case	$4,092	$7,512	$10,115			
	Median	$1,726	$4,032	$5,138			
2002	# of Cases	2,185	3,757	4,065	4,415		
	Avg Cost/Case	$3,791	$7,960	$9,877	$11,184		
	Median	$1,467	$3,932	$4,641	$4,944		
2001	# of Cases	2,056	3,654	3,867	3,974	4,210	
	Avg Cost/Case	$3,681	$7,045	$8,776	$10,176	$11,380	
	Median	$1,442	$3,688	$4,367	$4,614	$4,917	
2000	# of Cases	2,040	3,489	3,920	3,989	4,016	4,110
	Avg Cost/Case	$2,917	$5,456	$7,603	$8,556	$9,433	$10,245
	Median	$1,169	$2,657	$3,679	$3,917	$4,000	$4,106

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Exhibit 3.17

Wage Replacement: Lump Sums

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	56					
	Avg Cost/Case	$6,997					
	Median	$3,125					
2004	# of Cases	66	225				
	Avg Cost/Case	$9,587	$13,030				
	Median	$5,000	$7,250				
2003	# of Cases	83	303	416			
	Avg Cost/Case	$7,045	$11,553	$13,995			
	Median	$3,268	$6,500	$8,000			
2002	# of Cases	63	327	442	489		
	Avg Cost/Case	$6,831	$10,527	$12,691	$13,788		
	Median	$3,000	$5,000	$7,500	$8,000		
2001	# of Cases	55	259	395	435	463	
	Avg Cost/Case	$5,663	$9,921	$13,051	$14,783	$15,796	
	Median	$2,963	$5,300	$8,300	$9,116	$9,948	
2000	# of Cases	63	212	308	359	383	395
	Avg Cost/Case	$6,479	$9,496	$11,253	$12,518	$14,232	$14,571
	Median	$3,500	$6,000	$7,500	$7,500	$8,500	$8,500

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Exhibit 3.18

Medical Lump Sums: Paid to Claimant as Settlement of Medical Liability

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	1					
	Avg Cost/Case	$855					
	Median	$855					
2004	# of Cases	0	0				
	Avg Cost/Case	$0	$0				
	Median	$0	$0				
2003	# of Cases	3	11	12			
	Avg Cost/Case	$321	$1,734	$1,673			
	Median	$220	$653	$827			
2002	# of Cases	0	12	32	32		
	Avg Cost/Case	$0	$2,321	$2,830	$2,830		
	Median	$0	$379	$688	$688		
2001	# of Cases	1	8	14	24	26	
	Avg Cost/Case	$500	$10,906	$6,377	$4,360	$7,932	
	Median	$500	$4,375	$1,000	$1,000	$1,050	
2000	# of Cases	3	5	7	9	14	14
	Avg Cost/Case	$5,830	$5,934	$5,024	$6,346	$10,602	$10,602
	Median	$3,352	$4,500	$4,500	$4,500	$3,926	$3,926

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Exhibit 3.19

Wage Replacement: Vocational Rehabilitation Benefits

Injury Year	Category	First Year	Second Year (Cumulative Totals)	Third Year (Cumulative Totals)	Fourth Year (Cumulative Totals)	Fifth Year (Cumulative Totals)	Sixth Year (Cumulative Totals)
2005	# of Cases	11					
	Avg Cost/Case	$1,649					
	Median	$1,780					
2004	# of Cases	6	87				
	Avg Cost/Case	$1,571	$2,666				
	Median	$1,247	$2,347				
2003	# of Cases	9	116	207			
	Avg Cost/Case	$1,599	$2,822	$3,682			
	Median	$1,467	$1,923	$2,240			
2002	# of Cases	9	98	180	225		
	Avg Cost/Case	$1,840	$3,173	$4,336	$6,023		
	Median	$2,327	$2,020	$2,539	$2,735		
2001	# of Cases	10	87	179	225	241	
	Avg Cost/Case	$1,295	$2,318	$3,556	$5,622	$6,540	
	Median	$1,103	$1,800	$1,928	$2,192	$2,367	
2000	# of Cases	10	83	158	196	214	220
	Avg Cost/Case	$1,564	$2,178	$3,806	$5,171	$5,642	$6,226
	Median	$1,407	$1,796	$2,187	$2,425	$2,488	$2,561

SOURCE: Data provided by State of Montana WCAP database; figures calculated by Insurance Services Office, Inc. (ISO)

Settlement Dollars

Settlements are lump sum payments of the claimant's workers' compensation indemnity and/or medical benefits. Benefits are usually paid in periodic payments designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits will be converted to a lump sum payment. If the claimant has more than one claim, a settlement may settle more than one of those claims. Settlements are subject to approval by ERD.

This graph displays average settlement amounts, by fiscal year of injury, for claims settled between July 01, 2000 and June 30, 2005. This information includes both injury and occupational disease settlements.

Exhibit 3.20

Average Settlement[1]

By Fiscal Year of Injury

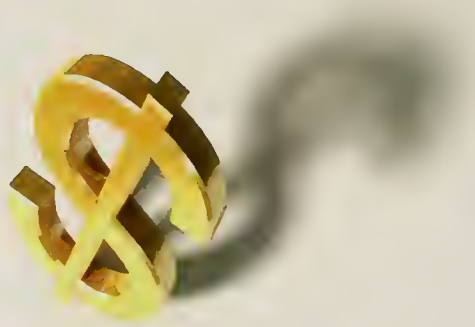


Exhibit 3.21

Settlement Amounts for Claims Settled[1]

By Plan Type[2] and Fiscal Year of Injury

Plan Type[2]	FY01		FY02		FY03		FY04		FY05	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	2,739,553	165	2,684,100	160	2,258,157	169	1,176,695	113	178,329	37
Plan 2	7,001,318	415	5,979,466	345	5,124,594	306	2,505,947	177	449,552	46
Plan 3	6,633,081	313	7,607,243	318	6,909,679	316	3,348,543	192	583,910	49
UEF	84,393	7	78,596	3	97,661	4	25,000	1	0	0
Totals[3]	***$16,458,345***	***900***	***$16,349,405***	***826***	***$14,390,091***	***795***	***$7,056,185***	***483***	***$1,211,791***	***132***

Notes:

[1]These charts do not include settlements ordered by the Workers' Compensation Court.

[2]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, and UEF – Uninsured Employers Fund.

[3]Previous fiscal year information has been updated.

Attorney Fees

The Employment Relations Division (ERD) requires claimants' attorneys to submit a Legal Fee report at regular intervals throughout the life of a claim. The Legal Fee report provides the amount of attorney costs and fees received by the attorney.

The data in exhibits 3.22 and 3.23 present the attorney fees and associated costs by plan type and fiscal year of injury.

Exhibit 3.22

Total Attorney Legal Fees

By Plan Type[1] and Fiscal Year of Injury

	FY01		FY02		FY03		FY04		FY05	
Plan Type[1]	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	313,298	79	266,887	72	195,091	56	131,608	33	66,216	20
Plan 2	1,146,312	277	953,053	245	671,768	172	404,110	116	161,456	57
Plan 3	1,221,216	211	822,733	179	881,455	187	524,121	152	277,628	87
UEF	0	0	1,250	1	0	0	6,094	1	0	0
Totals	***$2,680,827***	***567***	***$2,043,922***	***497***	***$1,748,314***	***415***	***$1,065,933***	***302***	***$505,300***	***164***

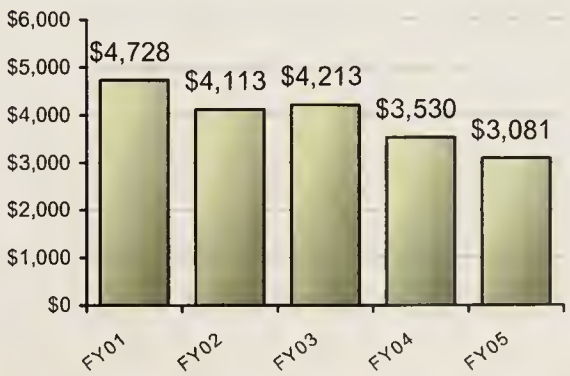
Notes:

[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, and UEF – Uninsured Employers Fund.

Exhibit 3.23

Average Attorney Legal Fees

By Fiscal Year of Injury



ERD also collects legal fees reported on workers' compensation approved settlements. The table below represents fees claimed in the fiscal year of the approved settlement regardless of the fiscal year in which the injury or disease occurred. This data shows that approximately 52% of all settlements in FY05 involve attorneys and about 18% of the settlement amount is paid to attorneys for fees and costs.

Exhibit 3.24

Attorney Fees from Claimant Settlements[1]

By Fiscal Year of Settlement

	FY01	FY02	FY03	FY04	FY05
Number of Settlement Petitions Processed	1,339	1,227	1,317	1,414	1,485
Claims Settled with Attorney Representation	715	682	645	787	779
Percent Claimants Represented by Attorney	53%	55%	49%	56%	52%
Total Settlement Amount with Attorney Involvement	$16,734,211	$17,551,999	$17,675,697	$22,960,912	$22,409,732
Total Attorney Fees	$3,028,678	$3,183,270	$3,166,382	$4,053,961	$3,945,962
Average Fee/Settlement Percentage	18%	18%	18%	18%	18%

Notes:

[1]Similar to reports issued in previous years, there are a small percentage of records for which no attorney fees were listed due to entry errors and/or reporting limitations.

Dispute Resolution

OCCUPATIONAL DISEASE EVALUATIONS

MEDIATION

CONTESTED CASE HEARINGS

WORKERS' COMPENSATION COURT

SIGNIFICANT WORKERS' COMPENSATION COURT CASES

SUPREME COURT DECISIONS ON WORKERS' COMPENSATION & OCCUPATIONAL DISEASE

Occupational Disease Evaluations

The Workers' Compensation Claims Assistance Bureau of the ERD is responsible for the occupational disease (OD) evaluation process. The process is used to determine whether a claimant's condition is a result of the employment and to determine compensability of claims under the OD statutes when an insurer has not accepted liability for the claim.

The process requires the claimant to attend a medical evaluation directed by the department. The medical evaluator submits a report of findings to the department. A copy of the report is then sent to the claimant and the insurer. If a dispute still exists over initial compensability as an OD, it is a dispute subject to the jurisdiction of the Workers' Compensation Court.

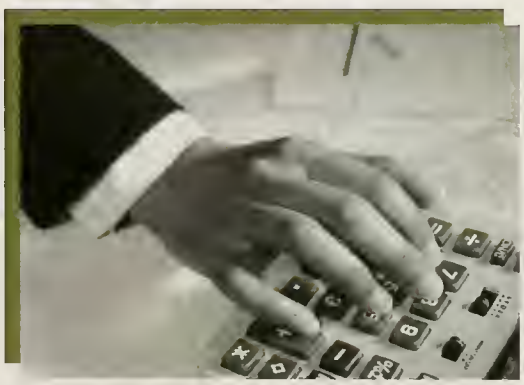
Exhibit 4.1

Occupational Disease Cases

By Plan Type[1] and Fiscal Year of Evaluation Request

Plan Types	FY01	FY02	FY03	FY04	FY05
Plan 1	40	29	30	25	38
Plan 2	82	63	64	28	54
Plan 3	45	81	96	71	101
Total	***167***	***173***	***190***	124	***193***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund



Mediation

The Workers' Compensation Mediation Unit of the ERD administers a mandatory process for resolving disputes dealing with benefits for both occupational injury and occupational disease claims. The mediation process is confidential, non-binding and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are held either in person in Helena or by telephone. Often more than one conference is held in order to resolve the disputes on a claim. In FY05, the Mediation Unit received and processed 1,338 petitions, which involved 1,463 claims. A petition is a request for mediation and may include multiple claims.

Exhibit 4.2
Claims in Mediation - FY05
By Plan Type[1]

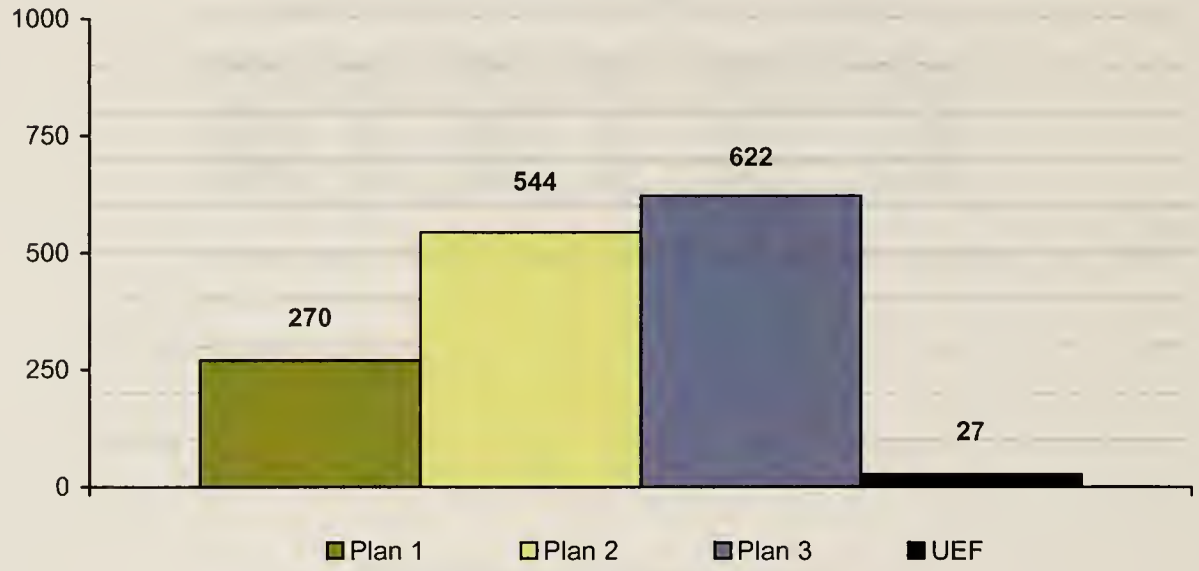


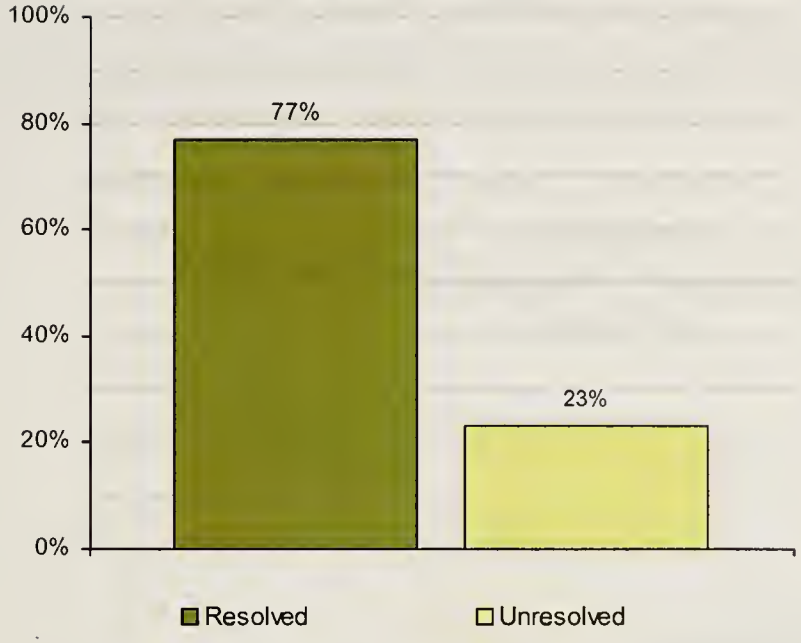
Exhibit 4.3
Claims in Mediation
By Plan Type[1] and Fiscal Year of Receipt

	FY01		FY02		FY03		FY04		FY05	
Plan Types	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	227	17%	247	18%	244	18%	272	19%	270	18%
Plan 2	648	49%	680	49%	623	46%	578	41%	544	37%
Plan 3	428	32%	443	32%	452	33%	550	39%	622	43%
UEF	30	2%	27	2%	36	3%	16	1%	27	2%
Totals[2]	***1,333***	***100%***	***1,397***	***100%***	***1,355***	***100%***	***1,416***	***100%***	***1,463***	***100%***

Notes:
[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund and UEF – Uninsured Employers Fund
[2]Total count represents number of claims not number of petitions

Exhibit 4.4

Percent of Petitions Resolved
By Mediation - FY05



- Over the past five years, the Mediation process has had an average resolution rate of 78%.
- From the date of the petition receipt to issuing a written recommendation, the average completion time for mediation was 41 days in FY05.

Exhibit 4.5

Mediation Petitions[1]
By Fiscal Year of Receipt

Petitions Received	FY01		FY02		FY03		FY04		FY05	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Pending[2]	0	0%	1	1%	1	1%	14	1%	130	10%
Closed	1,195	100%	1,259	99%	1,231	99%	1,289	99%	1,208	90%
Total Petitions Received	***1,195***	***100%***	***1,260***	***100%***	***1,232***	***100%***	***1,303***	***100%***	***1,338***	***100%***
Resolved	966	81%	972	77%	974	79%	989	77%	927	77%
Unresolved	229	19%	287	23%	257	21%	300	23%	281	23%
Total Petitions Closed	***1,195***	***100%***	***1,259***	***100%***	***1,231***	***100%***	***1,289***	***100%***	***1,208***	***100%***

Notes:
[1]A single petition may include multiple claims and/or multiple insurers.
[2]Eventual outcome of pending petitions will affect percent resolved.

Contested Case Hearings

The DLI Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by ERD, assessments of penalties for uninsured employers, medical disputes between providers and insurers when payments to the claimant are not an issue and regulation of attorney fees. The numbers of cases being heard by the DLI Hearings Bureau has been declining since FY98, when the Legislature transferred responsibility for hearing occupational disease claims to the Workers' Compensation Court. In FY05, the Hearings Bureau received 11 new requests for contested case hearings.

Exhibit 4.6

Petitions Received by the Hearings Bureau- FY05

By Plan Type[1]

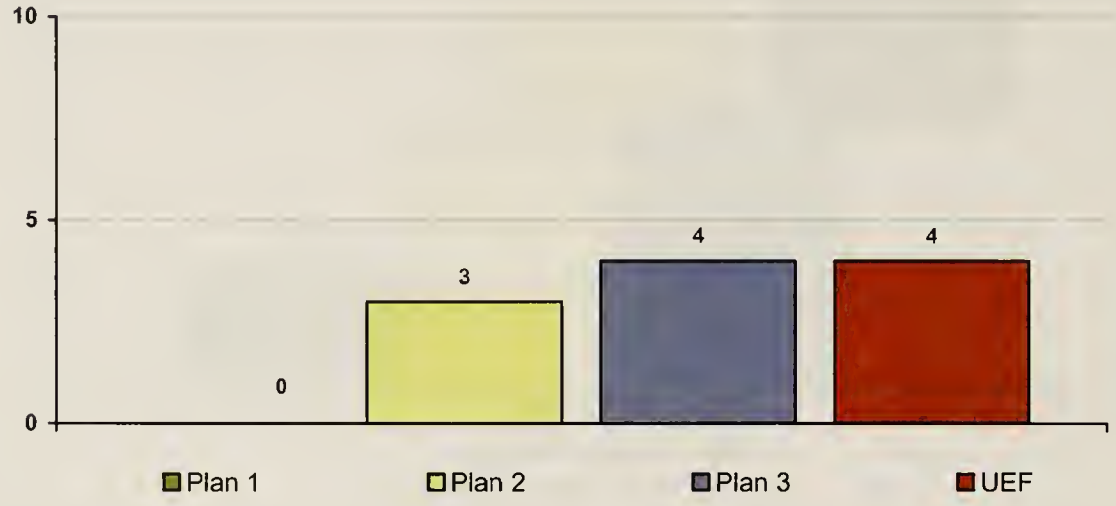


Exhibit 4.7

Petitions Received by the Hearings Bureau

By Plan Type[1] and Fiscal Year

	FY01		FY02		FY03		FY04		FY05	
Plan Type	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	0	0%	0	0%	1	5%	0	0%	0	0%
Plan 2	12	63%	7	44%	6	32%	5	36%	3	28%
Plan 3	1	5%	2	13%	3	16%	7	50%	4	36%
UEF	6	32%	6	38%	9	47%	2	14%	4	36%
PEO	0	0%	1	6%	0	0%	0	0%	0	0%
Total	***19***	***100%***	***16***	***100%***	***19***	***100%***	***14***	***100%***	***11***	***100%***

Notes:

[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, UEF – Uninsured Employers Fund and PEO – Professional Employer Organization.

Workers' Compensation Court

The Workers' Compensation Court (WCC) resolves disputes between insurers or employers and workers disabled as a result of occupational injuries or diseases. The Court has original jurisdiction over benefit issues arising under the Workers' Compensation Act and the Occupational Disease Act. For an injury occurring after July 01, 1987, disputes must first be mediated. The Court's exclusive jurisdiction also extends to disputes involving independent contractor exemptions under both the Workers' Compensation and Unemployment Insurance Acts, enforcement of DLI subpoenas, civil penalties for violations of workers' compensation provisions and the two-year return to work preference specified in section 39-71-317(2), MCA.

Court statistics were taken from the Workers' Compensation Court Website: http://wcc.dli.mt.gov

Exhibit 4.8

Percent of Petitions Received by the WCC - FY05

By Plan Type[1]

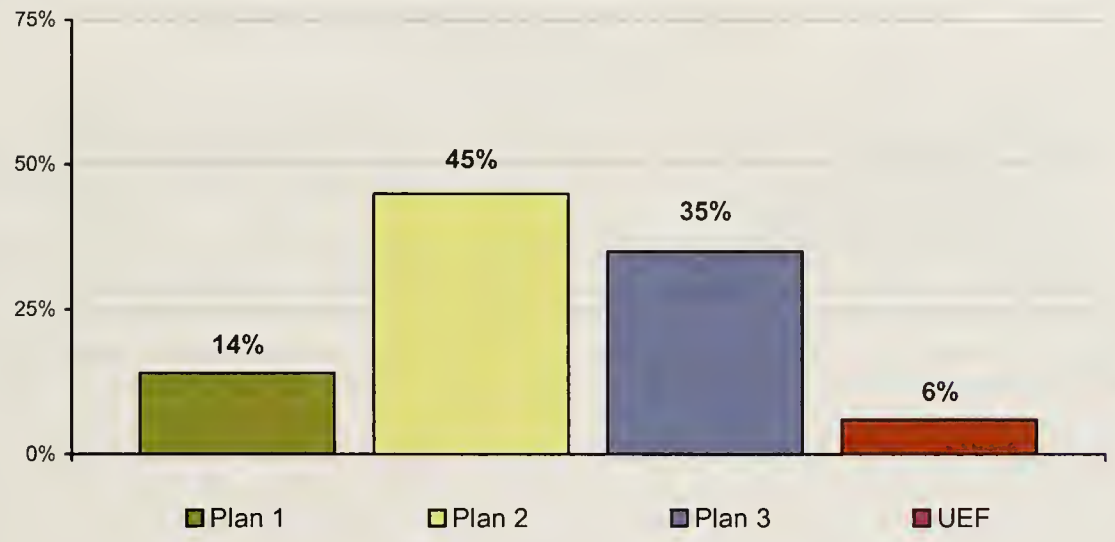


Exhibit 4.9

Petitions Received by the WCC

By Plan Type[1] and Fiscal Year

	FY01		FY02		FY03		FY04		FY05	
Plan Type	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	14	6%	29	12%	34	14%	28	11%	40	14%
Plan 2	144	60%	140	56%	139	59%	144	55%	124	45%
Plan 3	65	27%	62	25%	53	22%	75	29%	96	35%
UEF	15	6%	16	6%	9	4%	14	5%	18	6%
Total by Plan[2]	***238***	***99%[3]***	***247***	***100%***	***235***	***100%***	***261***	***100%***	***278***	***100%***

Notes:

[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund

[2]Petitions may involve more than one plan type.

[3]Columns may not sum 100% due to rounding.

Exhibit 4.10

Decisions by the WCC
By Fiscal Year

Decisions	FY01	FY02	FY03	FY04	FY05
Telephone Conference Resulting in Disposition	0	3	0	0	0
Bench Rulings without Written Decisions	3	2	0	1	3
Decisions	90	103	145	158	161
Orders on Appeal	0	4	0	0	1
Substantive Orders	64	26	32	30	41
Attorney Fee Orders	7	0	5	7	2
Orders on Cost	4	14	15	4	2
Disposed of by Telephonic Conference	0	2	0	0	0
Subtotals	***167***	***152***	***197***	***200***	***210***
Petitions Dismissed by Agreement	136	118	72	88	83
Totals	***303***	***270***	***269***	***288***	***293***

Exhibit 4.11

Full and Final Compromise Settlements by the WCC
By Plan Type[1] and Fiscal Year

Plan Type	FY01	FY02	FY03	FY04	FY05
Plan 1 Self–Insured	5	5	5	7	1
Plan 2 Private Insurers	23	16	12	13	6
Plan 3 State Compensation Ins. Fund	41	24	24	17	10
Plan 4 Subsequent Injury Fund	0	0	0	0	0
Plan 5 Uninsured Employers Fund	0	0	0	0	0
Total	***69***	***45***	***41***	***37***	***17***

Note:
[1]Plan types: Plan 1 – Self-insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund

Significant Workers' Compensation Court Cases

Case summaries are taken from the Workers' Compensation Court Website: http://wcc.dli.mt.gov

CATHERINE E. SATTERLEE vs. LUMBERMAN'S MUTUAL CASUALTY COMPANY
2005 MTWCC 55

Summary: The petitioners filed a motion for partial summary judgment seeking to have this Court declare section 39-71-710, MCA1, as it applies to permanent total disability benefits, unconstitutional under the equal protection clause found in Mont. Const., Art. II,§ 4. The petitioners also moved for partial summary judgment upon the grounds that section 39-71-710, MCA, unlawfully delegated legislative power to the federal government.

Held: Partial summary judgment is denied. Section 39-71-710, MCA, is constitutional as applied to PTD benefits. There is no violation of Petitioners' right to equal protection. A rational basis exists to justify the disparate treatment of similarly situated classes. Furthermore, there is no unlawful delegation of legislative power.

GALE MILLER vs. SEARS
2005 MTWCC 54

Summary: The petitioner petitioned for a lump-sum conversion of his lifetime expectancy of permanent total disability benefits.

Held: Conversion of lifetime permanent total disability benefits to a lump sum is granted. The petitioner demonstrated financial need that relates to the necessities of life. The petitioner and his wife provide a home for themselves, two of their adult children, and his elderly, disabled mother. The petitioner and his family currently reside in a multilevel rental home that is difficult for both the petitioner and his mother to navigate because of the stairs. The petitioner and his wife demonstrated that a lump sum would enable them to build or buy and modify a home which would accommodate the petitioner's and his mother's disabilities. The petitioner, with the assistance of his wife, is competent to handle his financial affairs. The petitioner and his wife have thus far managed their financial affairs with limited resources and setbacks beyond their control. However, it is apparent from the testimony that the petitioner and his wife's ability to manage their resources is being heavily taxed by their need to borrow against the petitioner's wife's retirement plan and that their ability to continue to borrow against this retirement plan is nearly exhausted.

LEE N. THOMPSON, DARIN SHARP and SCOTT BAILEY
vs.
STATE OF MONTANA,
LIBERTY NORTHWEST INSURANCE CORPORATION
and MONTANA STATE FUND
2005 MTWCC 53

Summary: Petitioners filed an action for declaratory judgment seeking to have this Court declare subsection (3) of section 39-71-604, MCA (2003), and subsection (5) of section 50-16-527, MCA (2003), unconstitutional as violative of Mont. Const., Art. II, §§ 10 and 17, and/or the Fifth and Fourteenth Amendments to the United States Constitution. Petitioners subsequently filed motions for summary judgment on these issues.

Held: Summary judgment is granted. Section 39-71-604(3), MCA (2003), and section 50-16-527(5), MCA (2003), violate the petitioners' constitutional right of privacy as guaranteed by Mont. Const., Art. II, § 10, and no compelling state interest exists to justify such violation. Moreover, the Court also finds that sections 39-71-604(3) and 50-16-527(5), MCA (2003), violate the petitioners' constitutional right to due process as guaranteed by Mont. Const., Art. II, § 17, and no rational basis exist to justify such violation.

LARRY McELDERRY
vs.
ST. PAUL FIRE & MARINE INSURANGE COMPANY
2005 MTWCG 26

Summary: Following a settlement conference with the settlement master of the Workers' Compensation Court, the claimant, who was personally present during the conference and also represented by counsel, repudiated a putative settlement agreement reached during the conference. The matter was then transferred to District Court Judge Jeffrey M. Sherlock for a determination as to whether a binding settlement had been reached.

Held: The claimant agreed to a binding and enforceable settlement agreement during the settlement conference.

KORMAN MARKETING GROUP
vs.
INDEPENDENT CONTRACTOR CENTRAL UNIT
2005 MTWCC 24

Summary: Icefox (his real name), a dogsled racer who had previously operated a business offering dogsled rides, bid and entered into a contract to provide dogsled races to guests of the operator of a guest ranch. The first contract was for the winter of 2001-2002. Icefox requested and received advances so he could purchase dogs and equipment. He in fact purchased the necessary dogs and equipment, laid out the specific dogsled routes on Ranch property, employed and paid others to assist him, supervised and operated the rides, and made safety decisions. He entered into a second contract for a second season, again specifying a price to which the Ranch then agreed. He did not enter into a contract for a third season and then sought unemployment benefits. The Ranch objected to his claim on the ground that he was an independent contractor and the matter was referred to the Independent Contractor Central Unit of the Montana Department of Labor and Industry, which is responsible for making an initial determination as to whether a worker is or is not an independent contractor. Following an ICCU decision, the Ranch filed a petition with the Workers' Compensation Court seeking a final determination of Icefox's status.

Held: Icefox was an independent contractor.

MOLLIE R. TELLES,
TRAVELERS PROPERTY & CASUALTY COMPANY OF AMERICA
vs.
ROYAL INSURANCE COMPANY OF AMERICA
2005 MTWCC 21

Summary: The claimant developed carpal tunnel syndrome as a result of her employment but was not diagnosed with the condition until after her employment had ended. The employer's insurer at the time she was diagnosed accepted liability for her carpal tunnel syndrome claim under a reservation of rights, then petitioned the Court for indemnification from the insurer which insured the employer during the period of the claimant's employment.

Held: An insurer which insures an employer after the claimant ceased working for the employer is not liable for an occupational disease arising during the employment. Section 39-72-303, MCA (2001-2003), which governs liability as between two insurers insuring a single employer, applies only where both insurers provided coverage while the claimant was actually employed by the employer.

STEVEN L. REDMOND
vs.
MONTANA STATE FUND
2005 MTWCC 20

Summary: The claimant filed a claim for osteoarthritis of his toes in 1993 and his claim was accepted as an occupational disease. Thereafter, his osteoarthritis progressed to other parts of his body. The insurer denied liability with respect to the progression and urges that the claimant was required to file a new claim for each new body part affected and that his claims for other body parts are barred by the statute of limitations.

Held: The 1993 claim was for the disease of osteoarthritis and encompasses any progression of that disease. The claimant was not required to file new claims with respect to other parts of the body subsequently affected by the disease.

DAVID STEWART
vs.
ATLANTIC RICHFIELD COMPANY
2005 MTWCC 17

Summary: The claimant suffered a hearing loss due to workplace noise while working for The Anaconda Company. He retired from the Company in 1984 and was provided a hearing aid pursuant to a collective bargaining agreement between the Company and his union but never filed or pursued a claim for workers' compensation or occupational disease benefits until 2002, when he brought his present petition.

Held: The claimant's only potential entitlement is under the Occupational Disease Act. Under that Act, his claim is barred by section 39-72-403(3), MCA (1983), which is a statute of repose and is not subject to tolling for any reason.

TYAD, INCORPORATED, A MONTANA CORPORATION, d/b/a THE PLAYGROUND LOUNGE AND CASINO
vs.
INDEPENDENT CONTRACTOR CENTRAL UNIT
2005 MTWCC 16

Summary: Five exotic dancers filed wage claims against the establishment where they danced. The claims were referred to the Independent Contractor Central Unit (ICCU) of the Department of Labor and Industry for a determination as to whether they were employees or independent contractors. After the ICCU determined they were employees, the establishment petitioned the Workers' Compensation Court for a *de novo* determination.

Held: (1) Under a 2001 amendment to the Workers' Compensation Act, the Workers' Compensation Court has jurisdiction over independent contractor disputes involving not only workers' compensation and unemployment insurance issues but also those involving wage claims. § 39-71-415(3), MCA (2001-2003). (2) Where a strip club controls the daily times dancers perform, provides significant equipment and services essential to the dancers performing, and can terminate dancers at any time without liability simply by giving written notice, the dancers are employees, not independent contractors.

JONATHAN LION
vs.
MONTANA STATE FUND
2005 MTWCC 11

Summary: The claimant successfully completed a rehabilitation plan calling for flight training leading to his certification as a flight instructor and air carrier pilot. When he could not find employment as a pilot, he petitioned the Court for further rehabilitation benefits amounting to approximately $200,000 to allow him to gain more flying time so he could primarily seek flying contracts with the State of Montana and United States Forest Service.

Held: The request for additional benefits under section 39-71-2001, MCA (1991), is denied since (1) only one rehabilitation plan is allowed and the original plan was completed; (2) the additional benefits would exceed the 104-week limitation imposed by the section; (3) the new plan has not been certified as reasonable by any vocational provider; and (4) the claimant has not proven to the satisfaction of the Court that the new plan would result in a reasonable prospect of regular employment. Any one of the grounds is a sufficient basis for denial.

JANNA WEISGERBER
vs.
AMERICAN HOME ASSURANCE COMPANY
2005 MTWCC 8

Summary: The claimant seeks permanent total disability benefits on account of an occupational disease arising out of her exposure to hair dye and other aerosolized chemicals at her workplace. The claimant's primary and most significant problem is vocal cord dysfunction where her vocal cords go into spasm and constrict her breathing.

Held: The claimant's employability must take into account her preexisting disabilities at the time her occupational disease arose. Under section 39-71-609(2), MCA (2001), upon the claimant reaching maximum medical improvement and the insurer's termination of temporary total

disability benefits, the insurer has the burden of producing evidence that, taking into consideration not only the claimant's disability directly attributable to her occupational disease but also other disabilities existing at the time her occupational disease arose, the claimant is qualified for and physically capable of performing regular work. The failure of the insurer to do so, along with evidence tending to indicate that the claimant is not able to do the jobs identified by the insurer, requires the Court to find the claimant to be permanently totally disabled.

ROBERT PURKEY
vs.
AIG and LIBERTY MUTUAL FIRE INSURANCE COMPANY
2005 MTWCC 2

Summary: The claimant suffered a low-back injury in 2002 for which AIG was liable. He reached maximum medical improvement with respect to the injury and returned to his time of-injury job on September 15, 2003. Shortly thereafter, he suffered a second, work-related aggravation of his low-back condition. Liberty Mutual was the insurer at the time but denied his claim for benefits because it was informed the claimant had failed to give his employer timely notice of the 2003 aggravation. The claimant then petitioned the Workers' Compensation Court seeking a determination that Liberty Mutual is liable for the aggravation and also seeking further temporary total disability benefits from AIG for an additional six-month period on account of its alleged failure to comply with section 39-71- 609, MCA (2003), when converting his 2002 injury benefits from temporary total to permanent partial benefits.

Held: (1) The claimant did not notify his employer of his 2003 aggravation within thirty days as required by section 39-71-603, MCA (2003), therefore, Liberty Mutual Fire Insurance Company is not liable for the aggravation. (2) AIG complied with the requirements of section 39-71-609, MCA (2003), when converting the claimant's benefits from temporary total to permanent total. Even if it did not comply with the statute, the claimant's return to work two weeks later terminated his entitlement to any further temporary total disability benefits.

Selected Supreme Court Decisions on Workers' Compensation and Occupational Disease

These decisions can be found at the State Law Library Website: www.lawlibrary.state.mt.us

RUBEN FELLENBERG vs. TRANSPORTATION INSURANCE COMPANY
2005 MT 90

Summary: The WCC found that, while still capable of working, Fellenberg voluntarily retired from Grace in 1986, for reasons unrelated to his occupational asbestos disease. The court further found that Fellenberg has not worked since his retirement and that at the time of his retirement, he had no intention of returning to the work force. Fellenberg does not dispute these findings. The WCC concluded that, as a result of his voluntary withdrawal from the labor force in 1986, Fellenberg was not entitled to PTD benefits because he did not meet the statutory requisites for such benefits. Specifically, the court concluded Fellenberg had no "loss of actual earnings" or loss of "earning capability" as a result of his occupational disease; rather, his "loss of actual earnings" was the result of his voluntary retirement. Furthermore, while finding that Fellenberg suffered a sixty percent loss of earning capability, the WCC concluded that such a reduction in earning capability was not compensable because he had voluntarily retired at 62, and at age 79, did not work and did not intend to work. The WCC also concluded that under the 1983 version of § 39-71-710, MCA, Fellenberg would not be entitled to PTD benefits at any future time because he receives social security retirement benefits. Having determined that Fellenberg was not entitled to PTD benefits, the WCC concluded that Fellenberg likewise did not qualify for PPD benefits, pursuant to *Hunter*. The Court also concluded that Fellenberg was not entitled to an impairment award. Lastly, the WCC considered Fellenberg's constitutional challenges to two of the four statutes in question and held that the statutes were constitutional.

Held: The Supreme Court affirmed the Workers' Compensation Court decision.

KEVIN RAUSCH, CHARLES FISCH, AND THOMAS FROST
vs.
STATE COMPENSATION INSURANCE FUND
2005 MT 140

Summary: Kevin Rausch, Charles Fisch and Thomas Frost (Appellants) appeal from the judgment entered in the Workers' Compensation Court, holding that permanently totally disabled (PTD) claimants injured between July 1, 1987, and June 30, 199I, are not entitled to an impairment award, and denying Appellants' request to issue a subpoena compelling the Department of Labor and Industry to furnish information identifying PTD claimants covered by Plan 1 and Plan 2 insurers. Additionally, Appellants argue that denial of an impairment award to PTD claimants violates the equal protection clause.

Held: The Supreme Court affirmed the Workers' Compensation Court decision.

CASSANDRA M. SCHMILL
vs.
LIBERTY NORTHWEST INSURANCE CORPORATION
2005 MT 144

Summary: Previously the Supreme Court found 39-72-706, MCA to be in violation of the Equal Protection Clauses of both the United States and Montana Constitutions. The Workers' Compensation Court had held that Schmill I applies retroactively and the petitioner's attorney were entitled to common fund fees even though they did not request them in their initial petition.

Held: The Supreme Court affirmed the Workers' Compensation decision that Schmill I applies retroactively and the petitioner's attorney is entitled to common fund fees.

Department Administered Programs

ORGANIZATIONAL CHARTS

WORKERS' COMPENSATION ASSESSMENTS AS EXPENDED

SUBSEQUENT INJURY FUND

UNINSURED EMPLOYERS' FUND

OCCUPATIONAL SAFETY & HEALTH

INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATES

PROFESSIONAL EMPLOYER ORGANIZATIONS

Organizational Charts

Exhibit 5.1 **Montana Department of Labor & Industry**

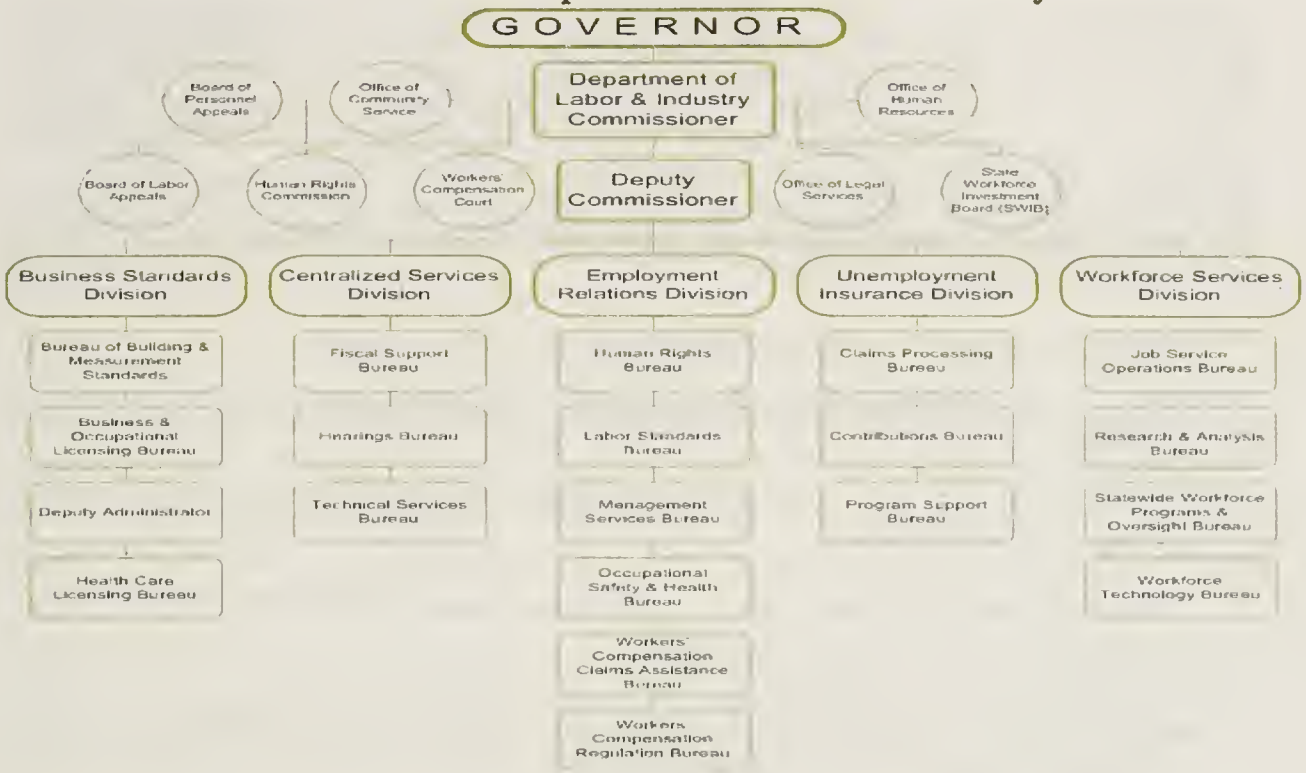


Exhibit 5.2 **Employment Relations Division**

Workers' Compensation Assessments as Expended

The administration of the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment to Plan 1 (self insured employers), Plan 2 (private insurance carriers), and Plan 3 (Montana State Fund). Section 39-71-201, MCA, requires the administrative assessment to be three percent of benefits paid during the preceding calendar year for injuries covered under the Workers' Compensation Act and the Occupational Disease Act, without regard to the application of any deductible, whether the employer or the insurer pays the losses. Benefits included in the calculation are: (1) compensation benefits paid and (2) medical benefits paid (except payments in excess of $200,000 per occurrence, which are exempt from the assessment).

DLI functions funded by the administrative assessments

- Legal functions of the Workers' Compensation Court and the Hearings and Legal Bureaus;
- Administration of the Employment Relations Division, including the Workers' Compensation Database;
- Claims management, data analysis, rehabilitation panels, mediation and administration functions of the Claims Assistance Bureau;
- Medical regulation, self-insurance, carrier compliance, Professional Employer Organizations, Managed Care Organizations and administration functions of the Workers' Compensation Regulation Bureau; and
- Occupational safety statistics, mandatory inspections, on-site consultation grant match, mining inspection, mine training grant match and safety culture functions of the Occupational Safety and Health Bureau.

Exhibit 5.3
Workers' Compensation Assessments as Expended
By Fiscal Year of Expenditure

FY01	FY02	FY03	FY04	FY05
$3,950,660	$4,387,058	$4,512,300	$4,584,468	$4,735,449

Subsequent Injury Fund

The Subsequent Injury Fund (SIF) was established by legislation passed in 1973. The purpose of the SIF is to assist individuals with impairments to obtain employment by offering a financial incentive to employers for hiring SIF-certified individuals. Many states have similar funds called either subsequent or second injury funds. Montana's program is funded through an annual assessment on Plan 1, Plan 2 and Plan 3 via direct bill or via a surcharge.

The law defines "person with a disability" as a person who has a medically certifiable permanent impairment that is a substantial obstacle to obtaining employment or re-employment. Also taken into account are such factors as the person's age, education, training, experience and employment rejections.

The SIF program reduces the liability of the employer by placing a limit on the amount an employer, or the employer's insurer, will have to pay if the worker becomes injured or re-injured on the job. When that limit is reached, SIF assumes liability for the claim. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers' Compensation and Occupational Disease Acts.

There were 208 new SIF certifications during FY05 bringing the total to 3,610 SIF-certified individuals in the state of Montana.

The assessment surcharge is based on a percentage of the compensation and medical benefits paid in Montana by each insurance plan in the preceding calendar year. The rate is set by the ERD based on the total amount of paid losses reimbursed by the fund in the preceding calendar year and the expenses of administration, less other income.

Exhibit 5.4

SIF Payments and Dollars Assessed

By Plan Type[1] and Calendar/Fiscal Years

	FY01		FY02		FY03		FY04		FY05	
Plan Type[1]	Payments CY99	Assessment FY01	Payments CY00	Assessment FY02	Payments CY01	Assessment FY03	Payments CY02	Assessment FY04	Payments FY04[2]	Assessment FY05
Plan 1	42,200	0	18,819	0	180,361	99,700	62,115	0	55,417	42,792[3]
Plan 2	16,195	0	9,580	0	43,294	19,854	135,513	14,857	116,938	82,832
Plan 3	549	0	170	0	12,461	381	94,312	48,642	204	151,763
Total	***$58,944***	***$0***	***$28,569***	***$0***	***$236,116***	***$119,935***	***$291,940***	***$63,499***	***$172,559***	***$234,595***

Note:

[1]Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund

[2]Change from Calendar Year to Fiscal Year basis (39-71-915, MCA)

[3]Previous year carryover credit from Plan 1 reduced the actual Assessment to zero

Uninsured Employers' Fund

The role of the Uninsured Employers' Fund (UEF) is to provide benefits to employees injured on the job while working for an uninsured employer. Another prime role of the UEF is to ensure employers comply with workers' compensation laws so employees are properly covered.

The UEF Unit levies and collects penalties for the time that the employer is uninsured. UEF requires the uninsured employer to pay a penalty to the fund. Penalties can be double the insurance premium that would have been paid by the employer, or $200, whichever is greater.

Exhibit 5.5
Uninsured Employers' Fund
Financial Activity by Fiscal Year

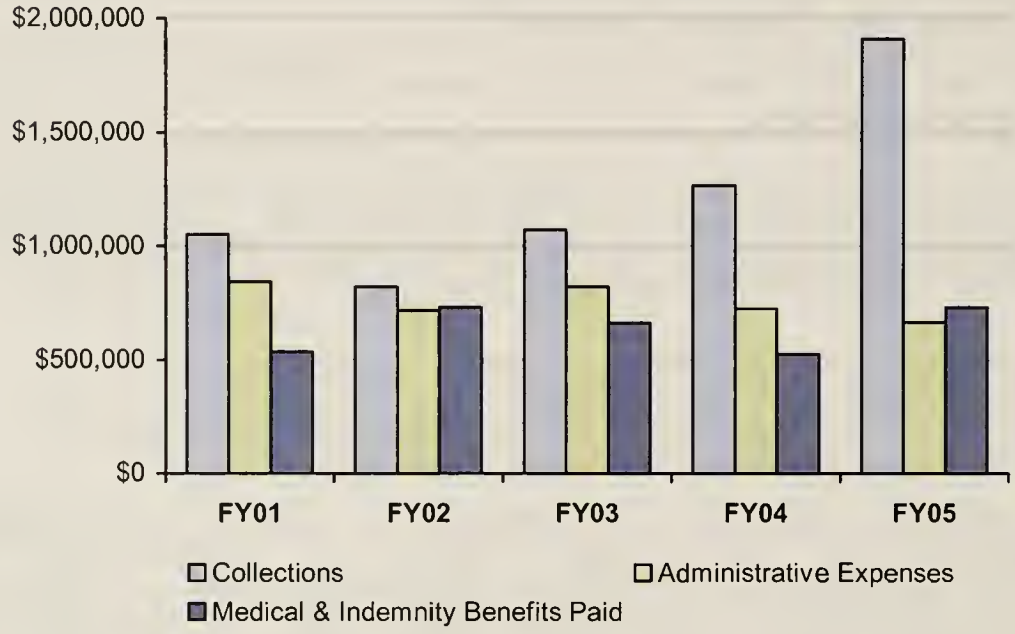
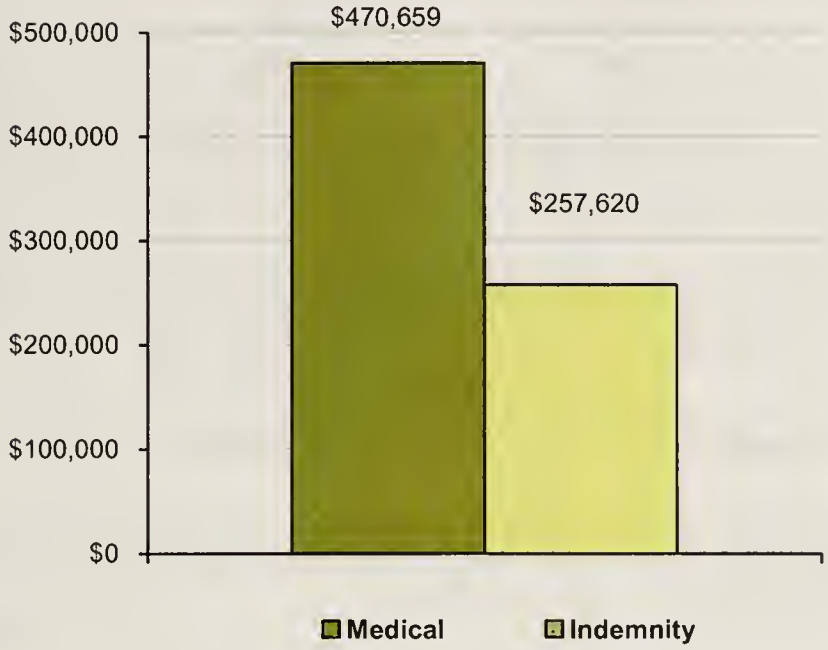


Exhibit 5.6
Uninsured Employers' Fund
Financial Activity by Fiscal Year

	FY01	FY02	FY03	FY04	FY05
Collections	$1,051,941	$816,467	$1,071,012	$1,412,419	$1,908,717
Administrative Expenses	$842,702	$716,409	$820,898	$808,130	$665,296
Medical & Indemnity Benefits Paid	$535,027	$582,716	$662,301	$522,973	$728,279

Exhibit 5.7
UEF Medical and Indemnity Payments - FY05



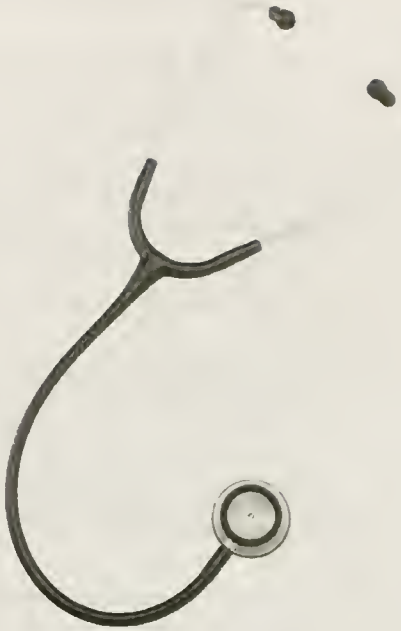


Exhibit 5.8
UEF Medical and Indemnity Payments
By Fiscal Year

	FY01	FY02	FY03	FY04	FY05
Medical	263,017	258,505	284,271	174,388	470,659
Indemnity	272,010	324,211	378,030	348,585	257,620
Total	***$535,027***	***$582,716***	***$662,301***	***$522,973***	***$728,279***

The UEF recorded claims from 90 workers who were injured in FY05 and whose employers were uninsured.

Occupational Safety & Health

The goal of the Occupational Safety and Health Bureau is to reduce the number of worker injuries and illnesses by focusing statewide attention and bureau resources on the various Montana safety and health statutes. This involves mandatory workplace inspections in the public sector, i.e., city, county, state government, schools, etc. In addition, inspections are conducted in coal mines and sand and gravel operations throughout the state. Non-mining private sector employers are subject to federal OSHA requirements with regard to inspection activities; however, the bureau does provide on-site consultations for private employers upon request using a monetary grant from OSHA.

The federal Mine Safety and Health Administration (MSHA) has provided the bureau with a training grant that allows the conducting of required safety training for employers and employees of the small mines. All miners are required to receive "new miner" training in addition to an annual refresher course in mine safety. The mine operators are also assisted in developing acceptable training plans so that their employees recognize hazardous conditions in mining operations.

Montana is one of the few states that require employers to implement an educational-based safety program in each place of employment. The Safety Culture Act also requires employers with more than five employees to have active safety committees.

Exhibit 5.9

Occupational Safety & Health Activities - FY05

Occupational Safety & Health	Employer Sector									
	Public					*Private*				
	FY01	FY02	FY03	FY04	FY05	FY01	FY02	FY03	FY04	FY05
Mandatory Inspections Performed	341	223	239	492	422	--	--	--	--	--
On-site Inspection Performed	--	--	--	--	--	142	214	275	270	236
Requests for Technical Assistance	479	363	540	651	513	438	447	758	732	661
Formal Training Sessions Conducted	44	120	48	--	--	45	153	72	--	--
Workers Trained	1,048	811	798	1,143	935	598	1,097	1,702	1,002	897

Mining Section	Coal					Sand & Gravel Operations				
	FY01	FY02	FY03	FY04	FY05	FY01	FY02	FY03	FY04	FY05
Inspections Performed	38	31	38	37	39	172	174	84	78	59
Mine Training Sessions Conducted	19	15	13	9	10	79	111	97	122	93
Workers Trained	302	497	200	210	169	1,436	1,512	1,679	2,468	1,728
Coal Mine Foreman Training Sessions Conducted	--	3	6	2	1	--	--	--	--	6
Coal Mine Foremen Trained	9	19	40	28	6	68	--	--	--	--

The DLI, Occupational Safety and Health Bureau, has established a schedule of training offered by its *Occupational Safety and Health Training Institute.* Traditionally the Bureau had offered training courses throughout Montana on a reactive basis. This caused scheduling problems, not only for the instructors, but also for those interested in being trained in the various OSHA standards. By setting places, dates and times of training opportunities, the employer and employee can plan schedules well in advance in order to attend. No tuition fee is charged for these courses.

The *Institute* provides basic and advanced training courses in safety and health. Course subject matter includes hazard recognition, state and federal policies and standards and hazard abatement techniques. Courses are designed to build a more effective workforce and to aid in the professional development for Montana employers and employees.

The *Institute* maintains a record of courses successfully completed by each student. These records are useful to both the student and the employer in demonstrating the commitment to a safe and healthy workplace environment. Certificates are issued to those successfully completing the various courses.

Training Institute	CY05[1]
Training Sessions	40
Workers Trained	949
Local Focus Groups	**CY05**
Training Sessions	40
Workers Trained	676

[1] Training Institute and Local Focus Groups are calendar year

Independent Contractor Exemption Certificates

With over a year of research, discussions and committee recommendations occurring on how to deal with the impact of the Supreme Court's Wild vs. Fregein decision, the 2005 Montana Legislature strengthened our state's independent contractor (IC) statutes. The new laws became effective on April 28, 2005, and clarify who is actually operating as an IC. Research findings used to write the new IC statutes identified Montana as having the highest percentage (eight percent) of independent contractors as a portion of the state workforce of any state that registers independent contractors. During the public hearings on IC rules, several business owners talked about the problems created by a process that was too relaxed in the way it issued IC exemption certificates, pitting the contract bids of employers who were properly covered with workers' compensation insurance against the contract bids of others not properly covered and who thereby had an unfair competitive advantage. The new IC law should help to resolve these kinds of issues.

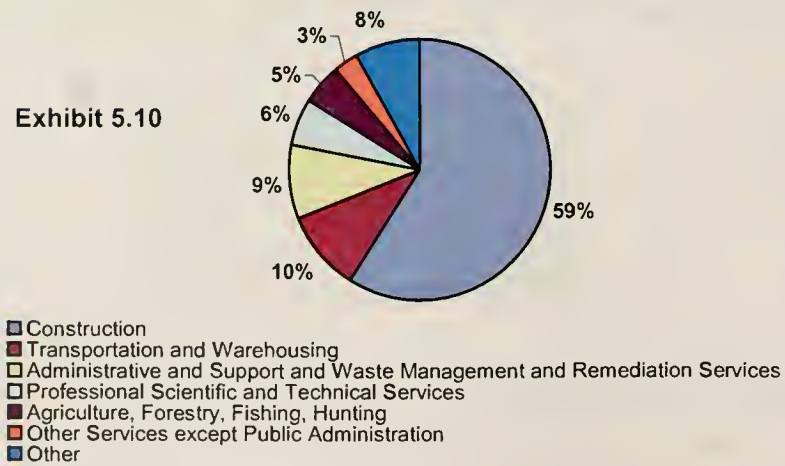
The law now requires that independent contractors either have the exemption certificate or purchase workers' compensation insurance coverage on themselves. Failure to obtain the exemption certificate or workers' compensation insurance will result in the state treating the worker as an employee of the hiring agent. Hiring agents will be responsible for claims for injuries or occupational diseases and for payment of premium on the wages of those considered their employees.

For FY05, the department received 7,578 applications. Most applications were in the Construction industry (59%), with the Transportation and Warehousing industry being the next largest (10%). A close third is the Administrative and Support and Waste Management and Remediation Services (9%), followed by Professional Scientific and Technical Services (6%). The graph below shows all exemption applications received by the industry.

Documentation must now be provided along with the application to support that the applicant is independently established in a business. The Department has the authority to investigate the working relationship between an independent contractor and his/her hiring agent. The Department may suspend or revoke an independent contractor exemption certificate. Fines may be assessed against the hiring agent if control is exerted to the extent it creates an employer/employee relationship.

In order to assist the public and others utilizing Independent Contractors to confirm the certification of these contract workers, the Independent Contractor Central Unit now maintains a website listing individuals with IC exemptions in good standing. This website is www.mtcontractor.com.

Exhibit 5.10



Professional Employer Organizations

Professional Employer Organizations (PEOs) are required to be licensed by the ERD prior to operating in Montana. A PEO is a business in good standing that contracts with other businesses, providing the businesses with leased employees or most frequently leases all or part of their employees. A PEO manages the paperwork responsibilities associated with having employees. PEO's are to pay employee wages, workers' compensation premiums, payroll-related taxes, and employee benefits from their own account without regard to payments by the client. Thus, PEO's become the employer of record. The client companies in return pay the PEO all employee costs plus an administrative fee. The client company is sometimes termed a co-employer. A client is an employer who obtains all or a part of its workforce through an employee leasing arrangement or a professional employer arrangement, both by contract with a Professional Employer Organization.

In FY05, ERD renewed and maintained 28 PEO licenses. An increasing number of client companies maintained contracts with a PEO in FY05, and through the 364 client companies of record, 2,629 employees were employed.

Exhibit 5.11

Professional Employer Organizations

By Number of Licenses and Fiscal Year

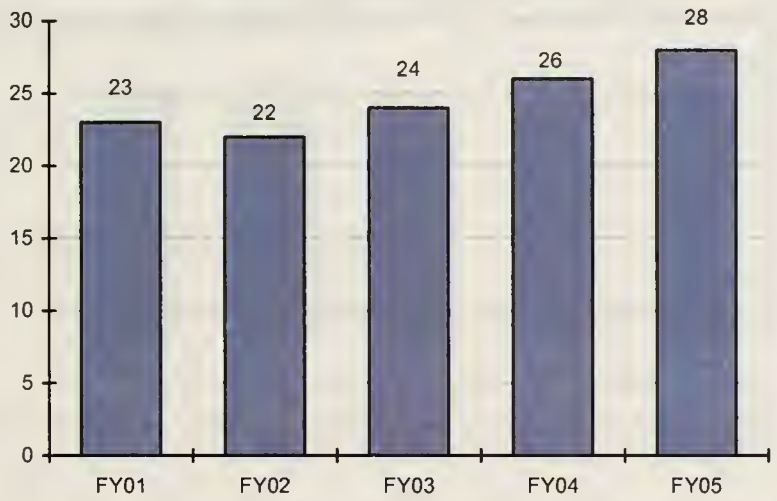


Exhibit 5.12

Exhibit 5.13

Data Source: POINTS – (Process Oriented Integrated Tax System, Department of Revenue - Unemployment Insurance Division)

Appendices

DEFINITIONS

METHODOLOGY

DATA SOURCES

FUTURE ANNUAL REPORTS

INTERNET SITE

SPECIAL STUDIES AVAILABLE

Definitions

Calendar Year: The year beginning January 1st and ending December 31st.

Cause of Injury Code: The code that corresponds to the cause of injury or occupational disease. The International Association of Industrial Accident Boards and Commissions (IAIABC) codes for cause are divided into nine categories. A tenth category, "Miscellaneous Causes" was created to account for the records that did not have a cause code entered or All Other Claims, NOC (Not Otherwise Classified).

Burn or Scald – Heat or Cold Exposure: Includes chemical, hot or cold objects, temperature extremes, fire or flame, steam or hot fluids, dust, gases, fumes or vapors, welding, radiation, abnormal air pressure and electrical current.
Caught In, Under or Between: Includes caught in or between machinery, an object being handled and miscellaneous objects such as earth slides or collapsing materials either man made or natural.
Cut, Puncture Scrape or Injured By: Includes punctures, cuts, or scrapes as a result of broken glass, hand tools, utensils, power tools or appliances.
Fall, Slip or Trip: Includes falling from a different level or on the same level, ladder or scaffolding falls, slipping on liquid or grease spills, fall into opening such as shafts, excavations or floor openings, stairs or slips on ice and snow.
Miscellaneous Causes: Includes absorption, injection or inhalation, foreign matter in eye, robbery or criminal assault, not otherwise classified (NOC); includes all records where cause was not reported on the First Report of Injury or where the code could not be converted to IAIABC codes.
Motor Vehicle: Includes crash of water vehicle, rail vehicle, collision with another vehicle or fixed object, rollovers, rough riding and airplane crashes.
Rubbed or Abraded By: Includes repetitive motion such as callous, blister, etc.
Strain or Injury By: Includes continual noise, twisting, jumping, holding or carrying objects, lifting, pushing, pulling, reaching, and using tool or machinery, wielding or throwing and repetitive motion.
Striking Against or Stepping On: Includes moving machine parts, objects being lifted, sanding, scraping or cleaning operations, stationary objects and stepping on sharp objects.
Struck or Injured By – Includes Kicked, Stabbed, Bit, Etc: Includes falling or flying objects, hand tools or machines in use, co-workers, or patients, motor vehicles, moving machine parts and objects handled by others.

Compensation Benefits: Any payment made directly to the worker (or the worker's beneficiaries) other than a medical benefit. The term includes payments made pursuant to a reservation of rights or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging.

Employment Relations Division (ERD): The State of Montana's regulatory agency for workers' compensation. This division is part of the Department of Labor and Industry.

Fiscal Year: The State of Montana's fiscal year begins July 1st and ends June 30th of the following year. (Example: 07/01/04 - 06/30/05 = FY05)

First Report of Injury and Occupational Disease (FROI): The initial report designed to notify parties of the occurrence of an injury or occupational disease. The FROI contains basic claim information about the worker, accident, employer and insurer.

Indemnity Payments: Payments made by the insurer to the injured worker to compensate for the loss of wages resulting from an injury or occupational disease.

International Association of Industrial Accident Boards and Commissions (IAIABC): An organization of workers' compensation specialists including government officials and regulators, business and labor leaders, medical providers, law firms, insurance carriers, and rehabilitation and safety experts. Working groups work jointly to standardize reporting of workers' compensation data. Standards have been developed for communicating data electronically through Electronic Data Interchange (EDI).

Median: The middle value of a distribution; half the values are above the median and half are below the median. When a distribution consists of an even number of values, the median is calculated by taking the average of the two middle values.

Montana Code Annotated (MCA): The definitive guide to Montana laws, consisting of the Constitution, codes and statutes. The MCA is normally published each odd numbered year incorporating changes made by the Legislative session of that year.

Nature of Injury Code: The code that corresponds to the nature of the injury or occupational disease. The IAIABC codes for nature are divided into eight categories. A ninth category "All Other Claims, NOC", was created to account for the records that did not have a nature code entered.

All Other Claims, NOC: Includes asphyxiation, loss of circulation, infection, concussion, heart problems, vision loss, hearing loss, poisoning, fainting, no physical or psychological injuries; includes all records where nature code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.
Amputation: Includes loss of a limb that involves bone, loss of part of an organ, enucleation or severance of a body part.
Bruise or Swelling: Includes contusions, broken blood vessels and inflammation.
Burn or Exposure: Includes electrical shocks, chemical burns, temperature extremes, freezing, sunburns, heat stroke and lightning.
Cut or Abrasion: Includes slivers, lodged small objects, open wounds, scrapes and needle sticks.
Fracture: Includes any breaking of a bone.
Multiple Injuries
Occupational Disease: Includes repetitive motion, loss of hearing or sight, respiratory conditions, poisoning, mental disorders, radiation, heart disease, cancer, AIDS, carpal tunnel and any disease resulting from work related experiences.
Sprain or Rupture: Includes strains, dislocations, hernias, organ ruptures and trauma to joints or muscles.

Other Benefits Code: A code that identifies the type of other benefits paid to date or recovered for an injury or occupational disease. The following are IAIABC code definitions:

Consultant/Expert Witness Fees Paid to Date by Insurer: Sum of fees paid to expert witnesses (in a legal proceeding for expert testimony or opinion) for this claim.
Employer's Deductibles Recovery: Sum of monies recovered through Insured reimbursement of deductible amounts for this claim.
Funeral Expenses Paid to Date: Sum of the funeral expenses for this claim.
Hospital Costs Paid to Date: Sum of costs of both inpatient and outpatient services which the injured employee received because of the work related injury.

Insurers Legal Expense Paid to Date: Sum of the employer's legal expenses paid for this claim.
Other Medical Paid to Date: Sum of medical costs not included in payments to physicians or hospital costs, i.e. laboratory tests, prescriptions.
Other Vocational Rehabilitation Education Paid to Date: Sum of vocational rehabilitation services not otherwise reported for this claim.
Overpayment Recovery: Sum of monies recovered due to overpayment of indemnity, medical or expenses for a claim.
Subrogation Recovery: Sum of monies recovered through subrogation for this claim.
Total Payments to Physicians: Sum of services paid to physicians for this claim.
Unspecified Recovery: Sum of monies recovered through salvage, apportionment/contribution, and all others not otherwise defined for a claim.
Vocational Rehabilitation Education Paid to Date: Sum of vocational rehabilitation education payments (including tuition, books, tools, transportation and additional living expenses) for this claim.
Vocational Rehabilitation Evaluation Expense Paid to Date: Sum of vocational rehabilitation evaluation services (testing and evaluating the claimant's ability, aptitude, or attitude in determining suitability for vocational rehabilitation or placement) for this claim.

Part of Body Code: The code which correspond to the part of body to which the employee sustained injury or occupational disease. The IAIABC code definitions for part of body are divided into six categories. The additional categories of "Wrist", "Back" and "Knee" are reported to provide greater detail. A tenth category, "All Other Claims, NOC", was created to account for the records that did not have a part of body code entered.

All Other Claims, NOC: Includes all records where the part of body code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.
Back: Includes the upper and lower back, disc, or lumbar and sacral vertebrae.
Head: Includes multiple head injuries, skull, brain, ears, eyes, nose, teeth, mouth, soft tissue or facial bones.
Knee: Includes the patella (kneecap) and supporting ligaments.
Lower Extremities: Includes multiple lower extremities, hip, upper leg, knee, lower leg, ankle, foot and toe.
Multiple Parts: Includes artificial appliances, multiple body parts or body systems.
Neck: Includes multiple neck injuries, vertebrae, disc, spinal cord, larynx, soft tissue or trachea.
Trunk: Includes multiple trunk injuries, upper and lower back, disc, chest, sacrum and coccyx, pelvis, spinal cord, internal organs, heart, lungs, abdomen and buttocks.
Upper Extremities: Includes multiple upper extremities, upper arm, elbow, lower arm, wrist, hand, fingers, thumb and shoulders.
Wrist: Includes hand and wrist or just wrist injuries.

Occupational Disease (OD): Harm or damage caused by work-related events that occur on more than a single day or work shift. It includes acute chronic illnesses or diseases caused by inhalation, absorption, ingestion or overuse syndrome.

Occupational Injury: A cut, fracture, sprain, amputation, or other physical harm, which results from a work accident on a single day or during a single work shift.

Permanent Partial Disability (PPD): Permanent impairment resulting from an injury, after achieving maximum medical improvement that impairs the worker's ability to work and causes an actual wage loss. PPD benefits are calculated using 66⅔% of the wages received at the

time of injury, not to exceed half the state's average weekly wage at the time of injury. Maximum length for PPD benefits is determined by the date of injury.

Permanent Total Disability (PTD): A physical condition resulting from an injury or occupational disease, after achieving maximum medical improvement, in which the worker has no reasonable prospect of physically performing regular employment. PTD benefits are calculated using 66⅔% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury. The injured worker may receive cost of living increases.

Plan Type: The type of workers' compensation insurance coverage chosen by an employer. There are three different types of insurance plans:

Plan 1: Self-insurance provided by employers who have sufficient financial strength to cover potential workers' compensation claims. If an injury occurs, a self-insured employer will pay the expenses and benefits.
Plan 2: Insurance coverage provided by a private insurance company.
Plan 3: Insurance coverage provided by the Montana State Compensation Insurance Fund (Montana State Fund).
Plan 5: Uninsured Employers Fund (UEF)
Plan 6: Subsequent Injury Fund (SIF)

Professional Employer Organizations (PEO): Professional Employer Organizations provide human resource services for small to medium size businesses. Examples of services provided by PEOs are staffing, securing unemployment and workers' compensation insurance, and handling payroll taxes and medical benefits. PEOs must be licensed by ERD prior to contracting with any client companies.

Standard Industrial Classification (SIC) Codes: Codes used to categorize employers by industry and are published by the Federal Office of Management and Budget in the 1987 Standard Industrial Classification Manual. SIC codes are grouped into ten different industrial divisions, as listed below with examples of each division.

Agriculture, Forestry & Fishing (AFF): Includes establishments primarily engaged in agricultural production, forestry, commercial fishing, hunting, trapping and related services.
Construction: Includes establishments performing new work, additions, alterations, reconstruction, installations, and repairs. Three broad types of construction activity are covered: building construction by general contractors, heavy construction other than building by general contractors, and construction activity by other special trade contractors.
Finance, Insurance and Real Estate (FIRE): Finance includes depository institutions, non-depository credit institutions, holding companies, other investment companies, brokers and dealers in securities and commodity contracts, and security and commodity exchanges. Insurance covers carriers of all types of insurance, and insurance agents and brokers. Real estate includes owners, lessors, lessees, buyers, sellers, agents, and developers of real estate. Establishments primarily engaged in the construction of buildings for sale are classified in construction.
Manufacturing: Includes establishments engaged in the mechanical and chemical transformation of materials or substances into new products. These establishments are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Establishments engaged in assembling

component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of materials, such as lubricating oils, plastic resins or liquors.

Mining: Includes all establishments engaged in the extraction of minerals occurring naturally, and also includes quarrying, well operations, milling, and other preparation customarily done at the mine site, or as a part of mining activity. Exploration and development of mineral properties are included.

Public Administration: Includes the executive, legislative, judicial, administrative and regulatory activities of federal, state and local governments.

Retail Trade: Includes establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods.

Services: Includes establishments primarily engaged in providing a wide variety of services for individuals, business or government establishments, and other organizations such as, hotels and other lodging places; establishments providing personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational institutions; and membership organizations.

Transportation, Communication, and Public Utilities (TCPU): Includes establishments providing to the general public, or to other business enterprises, passenger and freight transportation, communications services, or electricity, gas, steam, water, or sanitary services and all establishments of the United States Postal Service.

Wholesale Trade: Includes establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, farm, construction contractors, or professional business users, or to other wholesale; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

Subsequent Report: A report that gives indemnity and medical payment information on an injured worker's claim. The report includes the date benefit payments begin and amounts paid by benefit type.

Temporary Partial Disability (TPD): A physical condition resulting from an injury, prior to achieving maximum medical improvement that causes a partial loss of wages. TPD benefits are the difference between the injured worker's actual weekly wage and the actual weekly wage earned during the injured worker's temporary partial disability. TPD benefits are limited to a total of 26 weeks, but the insurer may extend the period. They are subject to a maximum of 40 hours per week and capped at the injured worker's Temporary Total Disability rate.

Temporary Total Disability (TTD): A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement that causes a total loss of wages. TTD benefits are calculated using 66⅔% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury.

Vocational Rehabilitation Benefits: Benefits paid to the injured worker at the worker's TTD rate. The benefits are paid for the period specified in the job placement or retraining plan, not to exceed 104 weeks. The plan is prepared by the rehabilitation provider and agreed to by the insurer and injured worker.

Methodology

Industry Divisions
Information is grouped by industry division whenever possible to allow for comparison using SIC codes. It is not mandatory to report SIC codes and if they are not provided, the injury will be reported under "NOC-Not Otherwise Classified" on the tables.

Injury and Occupational Disease Data
The First Report of Injury and Occupational Disease (FROI) is used to gather injury and occupational disease data. FROI's consist of four sections that provide information on the worker, accident, employer and insurer. It is completed and submitted to ERD by employees, employers or insurers. The injury or occupational disease may be reported under "NOC-Not Otherwise Classified", due to lack of data or the inability to categorize the data.

The FROIs in this study include all injuries and occupational diseases reported to ERD; however, all injuries and occupational diseases that occurred in Montana may not have been reported.

Subsequent Report Data
The Subsequent Report (SROI) is completed for each individual indemnity claim and is submitted to ERD by adjusters or insurers on every six-month anniversary of the date of injury, while the claim is open. The form includes claimant identification information, status of the claim; type of benefits paid and benefits payment amounts.

The study includes data reported to ERD on injury and occupational disease indemnity claims. Subsequent Reports may not have been submitted to ERD for all indemnity claims.

Year-to-Year Comparisons
Whenever possible, the data is presented with a comparison between the last five fiscal years.

Data Sources

Department of Labor and Industry, Mediation Unit
The Mediation Unit of ERD provided mediation section data.

Department of Labor and Industry, Occupational Safety and Health Bureau
The Safety and Health Bureau of ERD provided safety section data.

Department of Labor and Industry, Workers' Compensation Regulation Bureau
The Workers' Compensation Regulation Bureau provided data for the following sections of the report: Plan 1 Gross Annual Payroll, Plan 2 and 3 premium dollars, PEOs, Indemnity and Medical Benefits, SIF, Managed Care Organizations (MCOs), UEF and IC Exemption Certificates.

Department of Labor and Industry Hearings Bureau
The Hearings Bureau provided Contested Case Hearings data.

Regulatory Costs and Industrial Accident Rehabilitation Trust Fund Expenses
These costs were obtained from the state's Accounting, Budgeting and Human Resource System (SABHRS).

Workers' Compensation Court
Workers' Compensation Court data were provided by the Court, which is administratively attached to the DLI.

Workers' Compensation Database (WCAP)
The database system was built at the request of the legislature to provide management information. Employers, insurers, claimants, attorneys, medical providers and other parties of the workers' compensation community in Montana provide data for the system. ERD maintains the database.

Contracted Services

Insurance Services Office, Inc.

Insurance Services Office, Inc. (ISO) is the leading supplier of statistical, actuarial, and underwriting information for and about the property/casualty insurance industry. ISO is a recent entrant into the workers' compensation field and provides data analysis to ERD on a contract basis.

Future Annual Reports

If you have suggestions or comments about this annual report, please share them with us. We are most interested in any comments or suggestions that will make this report more useful to Montanans in general and the workers' compensation system in particular. You may direct your comments to:

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Internet Site

This report and previous reports are available on the Internet at the following web site:
http://erd.dli.mt.gov/wcclaims/wcchome.asp

Special Studies Available

- The Effect of Apportionment and Capping on Occupational Disease Claims – *A study requested by the Montana Department of Labor & Industry, Employment Division and conducted by Insurance Service Offices, Inc.*[1]

  This report is available on the Internet at the following web site:
  http://erd.dli.mt.gov/wcclaims/wcchome.asp

- Attorney Fee Supplement to Settlement Attorney Fees[2]

To request a copy of an Annual Report, special study or Attorney Fee Supplement, please contact:

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[1] Published in 2002 Workers' Compensation Annual Report .
[2] Published annually

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